

**Hana  
Lokahi**

**Working  
Together**



*Proudly Serving the People of Hawaii for 65 Years*

# Annual Report 2004

Department of Labor & Industrial Relations



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## Director's Message

I am pleased to present the Department of Labor and Industrial Relations' 2004 Annual Report. The year was one of exciting activities and changes within the Department which focused on furthering our goals to: promote access to employment, protect the employment rights of workers, alleviate the economic hardship of workers during periods of temporary disability or temporary unemployment, insure a safe and healthy workplace, develop and coordinate information to meet labor market supply and demand, and promote a harmonious working relationship between business, labor, educators and government agencies.

During the year, some of our significant accomplishments included:

### **New Website Launched**

The complete redesign of the Department's website. The existing sites of the Department and its divisions and attached agencies, were completely overhauled. One of the primary goals in this endeavor was to implement a uniform look for all the sites to present a consistent look and feel for the Department's agencies. We also placed a lot of focus on enhancing the content of information provided on the website, increasing public access to the information and improving user capabilities. The new website was launched on Labor Day and statistics reflect the success of this change with an incredible 176% increase in the number of hits



in the month of September over August.

### **Programs Ensure Safety & Health of Workers**

The implementation of various programs and policies in the Hawaii Occupational Safety and Health Division to ensure the safety and health of workers. We concentrated on efforts to reverse the negative image

of the HIOSH through improved outreach and consultative programs. We established the Notice of Violation (NOV) and DeMinimus Policy which allows employers to fix minor safety infractions on-the-spot, rather than receiving a citation. We also increased the number of participants in the Voluntary Protection Program (VPP) from one to three, and Safety and Health Achievement Recognition Program (SHARP) from none to 11. As part of our continued efforts to reduce the number of fall-related accidents, injuries and fatalities at construction job sites and heighten employers' and worker's awareness of the requirements of fall protection on the job, we initiated the Fall Protection Emphasis Program (FPEP) and Fall



*DOL Asst. Secretary John Henshaw delivers a speech at the 2004 VPP/SHARP Awards Ceremony. Also pictured: Lt. Gov. Duke Aiona and Gov. Lingle.*

Protection Initiative (FPI).

### **Work Comp Package Focuses on Reform**

The introduction of a Workers' Compensation Omnibus Bill at the 2004 Legislative Session. The State of Hawaii continually places as one of the highest in the nation for workers' compensation costs. Our legislative package concentrated on reforming the state's workers' compensation system which includes ensuring injured employees are provided quality medical care, reasonable costs for employers, and that medical providers receive timely reimbursements. We also worked on administrative rules that could bring much needed reform to the workers' compensation system by expediting the hearings and resolution process and introducing evidence-based medicine into the workers' compensation system.



### **Pre-Apprenticeship Project**

The spearheading of the Pre-Apprenticeship Project for the construction and other industries to provide refresher workshops and remedial courses for potential apprenticeship applicants. Workshops were conducted for carpenter and plumber applicants. An astounding 89% of those who participated in the workshops passed the test to enter the apprenticeship program.



*Students get inspired at one of the many booths at the Construction Career Expo.*

### **Employee of the Year**

The second year that a Department employee was recognized as the State Employee of the Year. Ms. Liane Kimura, Data Processing Systems Analyst, was selected in recognition of her remarkable performance in spearheading the creation and maintenance of the



*State Employee of the Year Liane Kimura with Gov. Linda Lingle and DLIR Director Nelson Befitel.*

Disability Compensation Division's automation and computer system. In addition to designing enhancements to the division's Lotus Notes infrastructure that significantly improved its information and automation capabilities, Ms. Kimura developed a plan to migrate from a mainframe dependency into a less costly system that will save the state in excess of \$1million annually.

Hawaii's rising economy has created many new jobs and significantly lowered our unemployment population. In fact, Hawaii continues to sustain the lowest unemployment rates in the nation. This is an exciting time for the DLIR as businesses are expanding and we head into an era of economic growth, development and vitality, and the promise of a healthy economy for our state and its workers.

We face the future with confidence that the Department will continue to enhance the delivery of its services and programs through process improvements, applications of advanced technology and expanded opportunities to partner with employers, businesses and government agencies to promote the safety, health, well-being and rights of workers.

Aloha,

**NELSON B. BEFITEL**  
**Director of Labor and Industrial Relations**  
**State of Hawaii**



**Patrick Fukuki**  
Administrative Services Officer

***Provides executive direction and administrative assistance to the Department's divisions and programs.***

**Administrative Services Office (ASO)**

The ASO provides departmental fiscal and financial management support, management and information technology analyses, and office services. The office oversees the expenditures within the Department with a total fiscal year 2004 operating budget of \$107 million and special fund accounts for the Unemployment Compensation and Workers' Compensation totaling \$167 million and \$24

million, respectively.

ASO strives to facilitate and expedite the processing of transactions that benefit our customers and ensure that the services we provide are consistent with state and federal regulations and guidelines. ASO continues to focus on new processes and applications that will expedite and facilitate the purchasing of goods and services for all programs within the Department.



**Lois Eiting**  
Personnel Officer

**Personnel Office (PO)**

The Department of Labor and Industrial Relations' (DLIR) Personnel Office (PO) administers state and departmental personnel policies and procedures. The office staff advises the Department on the proper application of personnel man-

agement practices, laws, rules and regulations of the state, and collective bargaining agreement provisions. The office serves as a liaison between the DLIR, Department of Human Resources Development (DHRD), and the exclusive bargaining agents of DLIR employees.



**Gary Hamada**  
Administrator

***Plans, directs and coordinates statewide activities relating to interpretation, implementation and administration of WC, TDI and PHC laws, rules, regulations, policies and procedures.***

The Disability Compensation Division (DCD) administers the Workers' Compensation (WC), Temporary Disability Insurance (TDI), and Prepaid Health Care (PHC) laws, rules, regulations, policies and procedures. The division's staff of 116 employees is organized into four (4) program offices (WC, TDI, PHC, and Program Support) and six (6) operational branches (Plans, Enforcement, WC Claims, Cost Review, Hearings, and Vocational Rehabilitation). The main office is located in Honolulu with district offices on the neighbor islands (Wailuku (Maui), Kealahou (Hawaii), Hilo (Hawaii), and Lihue (Kauai)).

The DCD's mission is to provide economic security and stability for Hawaii's workforce through education, enforcement, and adjudication of the WC, TDI, and PHC laws. Its primary objectives include ensuring efficient processing of claims; timely provision of medical services and payment of benefits to injured workers; employer compliance with WC, TDI, and PHC insurance coverage requirements; and monitoring health plans to ensure employees are provided with the benefits that are required under the PHC law.

The following are the three programs administered by the DCD:

***Workers' Compensation***

An employer-paid insurance program that provides economic relief for employees injured on the job. WC benefits include

medical and hospital expenses, lost wages, permanent disability disfigurement, and vocational rehabilitation.

***Key Accomplishments***

- ***Proposed Administrative Rules for WC reform to improve efficiency, transparency, accountability and cost reduction, and ensure workers receive quality care.***
- ***Developed new employer orientation presentation accessible through the DLIR website.***

***Key Initiative***

- ***Implement improved compliance assistance and enforcement activities to reduce the uninsured working population.***

***Temporary Disability Insurance***

This employer-provided insurance provides partial wage loss benefits to employees who suffer off-the-job injuries or illnesses.

***Prepaid Health Care***

The PHC law requires employers to provide workers with health care benefits for off-the-job injuries or illnesses. Coverage includes hospitalization, surgery, physician office visits, diagnostic tests, and maternity benefits. Hawaii is the only state to adopt a prepaid health care law and continues to be a leader in providing universal health care coverage.

***Disability Compensation Division***



**Joyce Pang**  
Appeals Officer

**Reviews appeals arising from decisions made by the Unemployment Insurance Division.**

The Employment Security Appeals Referees' Office (ESARO) provides an impartial forum for the review of appeals arising from decisions made by the Department's Unemployment Insurance (UI) Division. The ESARO also assures that individuals involved in disputed claims have a fair and impartial re-examination of the case based on the appropriate application of the UI laws. ESARO may also hear appeals relating to the denial of services in apprenticeship, training, and job placement programs that fall under the jurisdiction of the DLIR.

An ESARO referee, also known as the appeals or hearing officer, is tasked with the responsibility of conducting fair hearings which provide employers and claimants a chance to present their evidence and facts of the case. The written decision issued by the referee is final and binding unless an interested party requests a re-opening of the referee's decision or files an appeal with the circuit court within thirty (30) days from the postmark date of the referee's decision.

**In 2004, the DLIR launched its new website with expanded information to improve its educational outreach initiatives.**



**Bill Hoshijo**  
Executive Director

***Responsible for enforcement of the state's laws prohibiting discrimination in employment, housing and public accommodations and access to state-funded services.***

The HCRC enforces state laws prohibiting discrimination in employment (H.R.S. Chapter 378, Part I), housing (H.R.S. Chapter 515); public accommodations (H.R.S. Chapter 489), and access to state and state-funded services (H.R.S. §368-1.5). The HCRC receives, investigates, conciliates, and adjudicates complaints of discrimination.

The HCRC is attached to the Department of Labor & Industrial Relations (DLIR) for administrative purposes. The HCRC has five volunteer Commissioners. The Commissioners are appointed by the Governor, with the consent of the Senate, based on their knowledge and experience in civil rights matters and commitment to preserve the civil rights of all individuals.



The HCRC is divided into two separate and distinct sections: the enforcement section, which receives, investigates, and prosecutes discrimination complaints; and the adjudication section

which hears, issues orders and renders final determinations on complaints of discrimination filed with the HCRC.

The law requires filing of a complaint with the HCRC before filing a discrimination lawsuit in state court. Otherwise, the circuit court will dismiss a lawsuit for failure

to exhaust administrative remedies. This requirement prevents overburdening the courts with non-jurisdictional and non-

***Key Accomplishments***

- ***Conducted nearly 800 intake interviews, closed 442 cases, negotiated settlements in excess of 469,000.***
- ***Participated in public education forums, training for human resource professionals, businesses and labor groups.***

***Key Initiatives***

- ***Reduce length of time to investigate complaints.***
- ***Close cases filed after 12 31 04 within 18 months of filing close all cases filed before 2003 by 6 30 05 close all cases filed before 2004 by 12 31 05.***

meritorious cases, as well as cases that can be closed or settled in the administrative process. The great majority of cases filed with the HCRC are resolved and/or closed without resort to the courts.

***Mediation***

The HCRC's voluntary mediation program completed its fifth full year of operation, working with the Mediation Centers of Hawaii on Oahu, Hawaii, Maui, and Kauai. 24 cases were settled in mediation for monetary total relief exceeding \$300,000, with settlements in 83% of the cases referred to mediation.

## Hawaii Civil Rights Commission

Continued

The program has received high marks in satisfaction. Evaluations are sent to the parties in all mediated cases. The average rating of whether parties "would recommend the program to others," was a 4.2 (on a 1-5 scale, with 5 being "strongly agree").

### *Public Education*

The HCRC continued its commitment to prevent and eliminate discrimination through public education. HCRC staff made numerous presentations on civil rights and discrimination to labor, business, professional groups, civil rights advocacy, and other community organization audiences. Public education efforts included fair housing training on Kauai, Maui, Hawaii, and Oahu, and outreach and education efforts co-sponsored by the U.S. Equal Employment Opportunity Commission on Kauai and Hawaii. The HCRC implemented its plan to hold regularly scheduled training on an annual basis in Honolulu, as a better use of limited resources to reach a broader audience.

On October 9, 2003, the HCRC conducted its first annual general public training. A diverse capacity crowd of nearly 100 organizational representatives and individuals attended the event which was held in the DLIR conference room. The audience was comprised of 41.5% government agencies and 58.5% private sector (including nonprofits, individuals, unions, and businesses) attendees. The training evaluations returned by attendees showed that 96% said they would recommend this training to their colleagues.

### *Website*

An updated and enhanced HCRC website was also an effective outreach tool, recording nearly 180,000 hits during FY 2004, or an average of nearly 15,000 hits per month.

The HCRC independent website received 179,707 hits during the fiscal year. This was a 25.7% increase over fiscal year 2003. Analysis of statistical reports indicate that the site continued to receive a broad range of hits from the public, businesses, non-profits, and government.

During FY 2003-2004, 42 cases were referred into mediation. In addition, 29 cases were disposed of (completed) during the year, with 24 of those cases resulting in mediated settlements. This represented an 82.8% overall settlement rate, which was up from a 54% settlement rate last year. The total monetary value of mediated agreements was up by 40.1% to \$323,117. Most of the completed mediations (72.4%) were by the Mediation Center of the Pacific in Honolulu; followed by private mediation (20.7%) and the Ku'ikahi Mediation Center in Hilo (6.9%).

The most typical primary protected bases of completed mediations were: disability (27.6%); race, age, and arrest & court record (13.8% each). Other primary protected bases included: gender, retaliation, religion, and sexual orientation. Employment cases accounted for all 42 referrals.



**Brian Nakamura**  
Chairman

***Protests and enforces the rights of employees and unions to organize and bargain collectively and resolves labor disputes brought before it. Conducts hearings on contests of citations issued through HIOSH and appeals from their findings in discrimination complaints involving retaliation for reporting safety and health violations.***

The Hawaii Labor Relations Board (HLRB) hears and decides contested cases involving collective bargaining issues in the public sector and the private sector not subject to the jurisdiction of the National Labor Relations Board.

The HLRB seeks to promote good faith, harmonious and cooperative relations between the public/private sector employers, labor unions, and employees by efficiently resolving the disputes and ensuring the fair administration of the collective bargaining laws in Chapters 89 and 377, HRS. In addition, the HLRB hears contests or appeals of decisions rendered by the Director of Labor and Industrial Rela-

the employee's reporting of safety and health violations.



*Princess Ruth Keelikolani Building*

The Board is composed of three members, Kathleen Racuya-Markrich, Esq., who is representative of management, Chester C. Kunitake, who is representative of labor and the third member, the Chair, Brian K. Nakamura, who represents the public.

During the past fiscal year, the HLRB conducted 65 prehearing or status conferences, 55 motions hearings, and 65 days of hearings on the merits of the contested cases before it. The HLRB issued seven decisions relating to collective bargaining and 60 orders, including 38 orders disposing of the cases. The HLRB also issued three Occupational Safety and Health decisions and 48 orders, including 17 dispositive orders. The HLRB was also party to 20 court appeals or proceedings.

tions through the Hawaii Occupational Safety and Health Division (HIOSH) under Chapter 396, HRS. These cases are typically employer contests of citations and penalties for safety violations and appeals in discrimination cases involving

***Key Accomplishments***

- ***Closed 127 cases.***
- ***Rendered 85 decisions within 30 days of closing record.***

***Key Initiative***

- ***Continue to achieve performance results that reflect effectiveness of program measured by number of cases resolved, number of decisions rendered within 30 days and number of cases upheld on appeal.***

## Hawaii Occupational Safety and Health

***Administers and enforces Hawaii's workplace safety laws, and monitors the use and operation of boilers, pressure systems, elevators, escalators and amusement rides. Provides consultation, training and compliance assistance services to employers and their workers.***

The Hawaii Occupational Safety and Health (HIOSH) Division assures safe and healthful working conditions for Hawaii's employees.

The HIOSH has made marked improvements in the past year. The division has inspected more sites, performed more consultation services to businesses, improved its response time in investigating workers' claims and created an environment where businesses are more willing to partner with HIOSH to ensure safe and healthful work sites for Hawaii's workers.

More companies are forming partnerships with HIOSH by enrolling in HIOSH's recognition and achievement programs. The Voluntary Protection Program and the Safety and Health Achievement Program are designed to recognize large and small companies for creating an exemplary safety and health program and effectively implementing it.



The De Minimus and Notice of Violation policy was implemented to allow for com-

### ***Key Accomplishments***

- ***Concentrated on efforts to reverse negative image of the HIOSH through improved outreach and consultative programs.***
- ***Increased focus on enforcement activities to reduce number of fall-related accidents, injuries and fatalities at construction jobsites and heighten employers and workers awareness on requirements of fall protection through Fall Protection Emphasis Program FPEP and Fall Protection Initiative FPI.***

### ***Key Initiatives***

- ***Continue consultative, compliance assistance and outreach efforts.***
- ***Grow number of participants in compliance assistance programs and increase public confidence in HIOSH.***
- ***Plot Drug-Free Establishment Certification Program.***

panies to fix minor safety infractions or hazards on-the-spot or within two weeks rather than receiving a citation. The employer is required to submit a letter to HIOSH confirming that the hazard has been fixed.

The policy also allows our inspectors to concentrate their efforts on addressing serious violations that are most likely to cause injuries.



**Randall Iwase**  
Chairman

***Hears and decides appeals from decisions and orders of the Director issued under Workers' Compensation and Boiler and Elevator safety laws.***

The Labor and Industrial Relations Appeals Board (LIRAB) provides equitable treatment of individuals through determination of appeals arising from decisions made by the Disability Compensation Division on Workers' Compensation and on Hawaii Occupational Safety and Health's Boiler and Elevator Safety. The board also handles appeals of other matters authorized under various statutory provisions administered by the Department of Labor and Industrial Relations.

The LIRAB schedules at least one pre-hearing conference and a settlement conference prior to conducting a trial. Written decisions and orders are issued following trial or a hearing on a motion. In 2003-2004, the Board had a pending case load of 680 cases. There were 646 new appeals filed and the Board was able to dispose of 575 cases. This left 751 cases pending at the end of the fiscal year. In order to dispose of these cases, the Board conducted 529 pre-hearing conferences, 370 settlement conferences, and 271 hearings on motions. Sixty cases went to trial. The remainder of the cases was resolved by Board member intervention during the

conferences or disposed by other means. While the Board has made significant progress in providing for the timely issuance of decisions, it continues to look for

***Key Accomplishments***

- ***Improved processes and reduced disposal time of cases from an average of 15-18 months to 12 months.***
- ***Significantly reduced time to a render decision after a hearing from an average of 12 to 2 months.***

***Key Initiatives***

- ***Further reduce disposal time of cases from 12 months to 9-10 months.***
- ***Drive case discussions to encourage, promote and embrace settlement and dispute resolution.***

ways to improve its services, including shortening the time cases are set for trial. The Board recognizes the need to continue to improve productivity and resolve cases in a timely fashion.



**Sam Aiona**  
Executive Director

***Facilitates and enhances development, delivery and coordination of effective programs for disadvantaged persons, refugees, and immigrants and increase economic self-sufficiency of these individuals.***

The Office of Community Services (OCS) facilitates and enhances the development, delivery and coordination of effective health and human service programs for the economically disadvantaged, immigrants and refugees. The OCS also provides advice and assistance to private social service agencies, agencies of the executive branch and the legislature with regard to programs for these target populations. In

***Key Accomplishments***

- ***Served over 58,000 disadvantaged persons, immigrants and refugees assisted in areas of employment, legal assistance, childcare, early education, transportation, youth, food distribution and other services.***
- ***Implemented Results Oriented Management and Accountability **ROMA** in service contracts which measures effectiveness of programs and deliverance of stated objectives...***

***Key Initiatives***

- ***Increase faith-based organization involvement in programs.***
- ***Develop more in-depth monitoring and evaluation programs and requirements for service providers to proactively determine contract compliance and performance and timely detection of program problems.***

2003-2004, the OCS administered over \$7.6 million dollars in State and Federal funds to assist the economically disadvantaged, immigrants and refugees in the State of Hawaii.

State funds were used to purchase and provide services such as employment assistance to low-income persons and immigrants; extended day child care for Head



Start children and parents; transportation to basic services for low-income workers, elderly and disabled persons, and children; support services to at-risk immigrant youth; and legal services to immigrants and low-income people. Additionally, funds were utilized to ship over 200,000 pounds of food to food banks on the neighbor islands.

Federal funds provided employment assistance to refugees and community action agencies on various islands that serve low-income persons. A web-based Food Resource Assistance Directory for the island of Hawaii was also developed with the help of federal monies. Funds were also used to ship over 2.5 million pounds of emergency food from the U.S. Department of Agriculture to community action agencies and food banks. Senior citizens on Kauai and Hawaii also benefited from federal aid by having 509,000 pounds of locally grown fruits and vegetables provided to them.



**Naomi Harada**  
Officer

***Conducts labor research and analysis; develops labor force estimates on employment and unemployment in cooperation with Federal Bureau of Labor Statistics and U.S. Dept. of Labor; provides technical assistance and specific management data to various DLIR divisions.***

The Research and Statistics (R&S) Office conducts labor market and labor-related research and provides information resulting from this research to individuals and businesses. Data on industries, occupations and wages help guide jobseekers in their job search efforts and career planning, employers in their hiring practices, and managers and legislators in their decision-making process.

Labor E-Information Suite (LEIS) is a suite of information systems available through this office. LEIS provides public access and links to information on wages, employment, unemployment, work injuries and illnesses, and occupational, job search, labor market, career, educational and training information. Labor and Occupational Information Hawaii (LOIHI) is



a website that provides subject tables on the home page. The Hawaii Workforce Informer (HIWI) is an interactive website that provides information and data about Hawaii's labor markets. Career Kokua,

the Hawaii Career Information Delivery System, is a computerized system providing continuously updated localized information for career and educational planning. There were more than 240,000 hits to these three websites during fiscal year 2004.

**Key Accomplishments**

- ***Provided statistical data on monthly employment, unemployment, jobs, occupational wages, state construction, and workers compensation program.***

**Key Initiatives**

- ***Increase collaborative efforts with partners to further extend outreach to educate students, schools, and secondary education providers on career development.***
- ***Utilize advance technologies to improve division's capabilities to research and produce reliable, useful and applicable data.***

Workshops, career fairs, training sessions and presentations are conducted to promote awareness of information and their uses. This past year the Research and Statistics Office participated in the Hawaii Career and College Fair serving over 15,000 students, parents, teachers and counselors and conducted over 30 workshops, training sessions and presentations.



**Attilio K. Leonardi**  
Chair

The State Fire Council (SFC) is comprised of the county fire chiefs in the State of Hawaii. The SFC's primary mission is to develop a comprehensive fire service emergency management network for the protection of life, property, and the environment throughout the State. The group also strives to unify and standardize fire service by sharing information, technology, and resources.

In addition to adopting a State Fire Code, the SFC serves as the focal point through which

all applications to the Federal government for grant assistance for fire-related projects are made. The SFC may advise and assist county fire departments where appropriate; prescribe standard procedures and forms related to inspections, investigations, and reporting of fires; and advise the Governor and Legislature with respect to fire prevention and protection, life safety, and any other functions or activities for which the various county fire departments are generally responsible.





**Linda Uesato**  
Administrator

**Administers statewide unemployment insurance program, including payment of allowances under special training programs in Hawaii. Program provides partial replacement of wage loss during temporary periods of unemployment to individuals who meet requirements of state unemployment insurance laws.**

*The Unemployment Insurance Division administers the unemployment compensation program for the state of Hawaii and is governed by both state and federal laws including Titles III and IX of the Social Security Act, the Federal Unemployment Tax Act, and the Hawaii Employment Security Law under Chapter 383, Hawaii Revised Statutes. The program is financed by federal and state payroll taxes paid by*

*monly called, are deposited into a trust fund for the payment of UI benefits.*

Since July 2002, Hawaii’s jobless workers have been able to file their claims using a telephone filing system, Hawaii Tele-Claim. Hawaii Tele-Claim accounts for 70% of initial claim applications and 95% of weekly claim certifications.

Staff located at eight local claim offices in Honolulu, Waipahu, Kaneohe, Lihue, Wailuku, Kaunakakai, Kona, and Hilo are available to service the public and respond to Hawaii Tele-Claim calls.

In 2003, nurses from Wahiawa General Hospital went out on strike for approximately 10 weeks in the second quarter and bus drivers at Oahu Transit Services were out for over 4 weeks during the third quarter. In the first quarter of 2004, concrete workers at Hawaiian Cement and Ameron Hawaii were on strike for more than 5 weeks. The workload increase of approximately 1,250 initial claim applications and over 5,000 weekly claim certifications were handled by Hawaii Tele-Claim.

New businesses are able to register with three state Departments online at a one-stop internet portal, “Hawaii Business Express.” The UI Division secured federal funding of over \$500,000 to develop more internet projects and next year, employers can look forward to submitting their quarterly wage reports directly to the UI Division via the internet.

***Key Accomplishments***

- ***Exceeded all initial claims promptness standards and objectives promulgated by the U.S. Dept. of Labor.***
- ***Achieved quality and accuracy standards for correct benefit payments to claimants with 94.8 in 2003 and 95.7 in 2004.***

***Key Initiatives***

- ***Continually enhance programs to be customer-driven.***
- ***Implement secure, web-based applications for quarterly wage reporting, employer contribution report filing and tax payment capabilities.***

*employers and provides up to 26 weeks of temporary partial replacement of wages to individuals who meet certain eligibility requirements. The federal tax covers the costs of administering the program and the state tax, or contributions as they are com-*



**Pamela Martin**  
Administrator

***Administers and enforces labor laws relating to minimum wage; overtime; unpaid wages; illegal deductions; child labor; family leave; work injury termination; prevailing wages and hours on public works construction projects; and lie detector tests.***

The WSD administers and enforces labor laws relating to minimum wage, overtime, and payment of wages; child labor; prevailing wages and hours on public construction contracts; work injury termination; family leave; and lie detector tests. The division's mission is to administer these laws to insure workers are afforded their lawful rights and benefits relative to wages, to safeguard against unlawful employment practices, and to continuously improve services to customers. The division accomplishes its work through three branches.



***Intake and Certification Branch***

This branch handles all inquiries and processes the filing of all complaints to the WSD. The branch fielded 22,247 inquiries resulting in the filing of 764 complaints this fiscal year, a 13% increase over the previous fiscal year. The Intake and Certification Branch also issues appropriate certificates for working minors. During the fiscal year, 2,143 Certificates of Employment for 14- and 15-year old minors and 8,831 Certificates of Age for 16- and 17-year old minors were issued throughout the State. The branch also processed 12 special minimum wage certifications, 10 pay exception requests and conducted 60 investigations relating to the Child Labor Law and related issues, almost twice as

many as last year.

The branch continues to pursue voluntary compliance through educational workshops, seminars and meetings. This fiscal year, 17 events were held reaching 306 attendees. By pursuing partnerships with

***Key Accomplishments***

- ***Improved processes and reduced disposal time of cases from an average of 15-18 months to 12 months.***
- ***Significantly reduced time to a render decision after a hearing from an average of 12 to 2 months.***

***Key Initiatives***

- ***Further reduce disposal time of cases from 12 months to 9-10 months.***
- ***Drive case discussions to encourage, promote and embrace settlement and dispute resolution.***

the business community as well as the schools, the Division can meet its goal of providing better service to its customers with greater compliance.

***Compliance Branch***

The Compliance Branch conducts statewide investigations for compliance with the labor laws administered by the WSD. In fiscal year 2003-2004, the branch completed 562 investigations affecting 792 employees. Just more than 80% of the total investigations focused on the Payment of Wages and Other Compensation Law. This year 456 investigations in that area found \$203,660 in monetary violations for 256 employees. The average time lapse from filing of complaint to close for these investigations was 39 days.

## Wage Standards Division

Continued

In contrast, only 36 investigations were completed in the Wages and Hours of Employees on Public Works Law, Chapter 104, Hawaii Revised Statutes, but \$392,262.80 was found due to 173 employees for back wages. Due to the complexity, these Chapter 104 investigations had a longer time lapse period of 162 days. As required by law, Notification of Violations (NOV) are issued and penalty assessments are made. This fiscal year 18 NOV's resulted in \$79,448 of penalty assessments. The penalty assessment figure is substantially higher than the previous year due to one assessment of \$31,903 for a third violation, even though the total number of violations had decreased from the previous year.

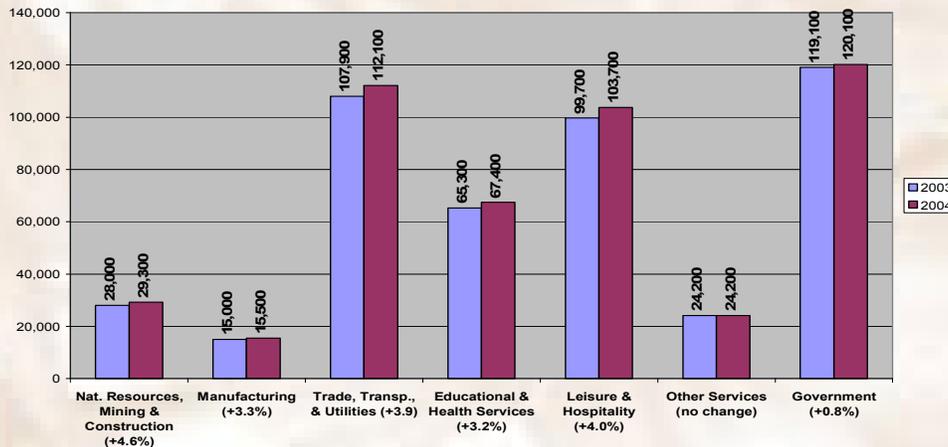
### Hearings Branch

The Hearings Branch plans, directs, supervises, and coordinates statewide activities related to conducting administrative hearings in conformance with Chapter 91, Hawaii Revised Statutes. Hearings are held on complaints or appeals filed under labor laws pertaining to Employment Practices, Wages and Hours of Employees on Public Works and the Hawaii Family Leave Law.

This past year, the branch conducted a total of 45 hearings statewide and disposed of 100 complaints. The disposal consisted of 11 lawful discharges, 69 dismissed complaints, and 20 withdrawals. Of the dismissed complaints, the branch assisted the parties in settling the issues in 17 cases.

### Did You Know?

On an annual average basis, in 2004 over 2003, total non-agricultural private sector employment expanded by 13,900 jobs, or 3.1%.



- That in 2004, 595,750 people were employed in Hawaii? The most in the state's history.
- That there was a 2,347 (8.2%) drop in workers' compensation claims filed in 2004.
- Employees 55 years of age and over, accounted for 18% of the civilian labor force in 2004.
- The average pay for all occupations in 2004 was \$36,276.



**Ann Yamamoto**  
Executive Director

***The Council is a private-sector led group who advises the Governor on workforce development to support economic growth and employment opportunities in Hawaii. It is the state’s advisory commission on employment and the workforce.***

The Hawaii Workforce Development Council (WDC) advises the Governor on workforce development policy to support and sustain a strong economy. The agency is within the Department of Labor and Industrial Relations for budget and administrative purposes.

***Key Accomplishments***

- ***Spearheaded Pre-Apprenticeship project for the construction and other industries to deliver refresher workshops and remedial courses for potential apprenticeship applicants. Conducted workshops for carpenter and plumber applicants. Eighty-nine percent of those who participated passed the test.***

***Key Initiative***

- ***Develop and execute a statewide workforce system linking education, employment and economic development priorities and activities.***
- ***Improve workforce training and placement for youth and for Hawaii’s under-employed and hard-to-employ population.***

The WDC reviews, assesses and facilitates coordination between the state’s workforce development programs, including those of the federal government operating in the state. They serve as an information clearinghouse and analyze and interpret workforce information, particularly changes which are likely to occur during the next 3-5 years; the specific industries, occupations and geographic areas which are most likely to be impacted; and the social and economic effects of these developments on

the state’s economy, labor force, communities, families, social structure and human values. The Council periodically prepares and updates a comprehensive state plan for workforce development which includes specific, measurable outcomes.

Recommendations from the WDC are provided to the Governor and Legislature to adopt state policies and funding priorities based on local community input to meet workforce development responsibilities and needs and to establish a system in the state to ensure resources and programs are



coordinated and efficiently used.

The WDC also assists the governor in the development of the state’s plan for the use of federal workforce investment funds, continuous improvement of the statewide and local workforce investment systems; review of plans prepared by the local Workforce Investment Boards (WIB) for the use of federal workforce investment funds; continuous improvement of comprehensive state performance measures; and the assessment of the effectiveness of the workforce investment activities in the state.



**Elaine Young**  
Administrator

***Plans, directs, coordinates and implements a statewide customer-driven workforce development system which delivers employment and training services to job applicants, workers and industries to provide a skilled and competitive workforce capable of meeting employer's needs and economic development.***

The Workforce Development Division (WDD) plans, directs, coordinates and implements a statewide no cost workforce development system that delivers employment and training services to job applicants, workers and industries. Through the One-Stop Center system, WDD and its partner employment and training agencies provide an integrated array of labor exchange and training services to business and job seeking customers.

The WDD develops and maintains partnerships with the private sector, including labor organizations, employers, and economic development agencies to identify emerging employment trends, technological advances, declining industries and economic issues. The division develops grant proposals in coordination with state and county agencies to apply for federal, state, and other funds to carry out employment and training program activities.

The division collaborates with educators, interested employers and labor unions to



***Students get inspired at the Construction Career Expo.***

identify basic skills and qualifications of all workforce entrants. They help to plan and develop career-based learning and industry skill standards in targeted industries.

**Key Accomplishments**

- ***Exceeded goals in number of job applicants serviced adult job placement after training skills training for youth.***
- ***Co-sponsored and coordinated Construction Career Expo that drew over 1,400 high school students and adults.***

**Key Initiatives**

- ***Co-sponsor Construction Career Expo on neighbor islands in 2005 and on Oahu in 2006.***
- ***Increase collaborative partnerships between businesses, employers, education systems and agencies to promote, market, and increase use of One-Stop centers throughout the State.***

The WDD is also involved in strategically planning for economic dislocations of workers in declining industries. Staff work closely with employers, labor organizations, and local workforce investment boards to make appropriate services available to dislocated workers through the use of rapid response teams.

The WDD will continue its efforts to provide needed training, skills development and support to Hawaii's workforce and to successfully administer the various programs under its jurisdiction. Through expansion of relationships and partnerships with business associations, the division anticipates a very active year as the state prepares for the increasing demand for workers.

**Report on Non-General Fund Information**  
for Submittal to the 2005 Legislature

Department: Labor and Industrial Relations

Date: 09/24/04

Prepared by: Francis Kagawa

Phone 586-8887

Name of Fund: Special Compensation Fund (WC)

Legal-Authority: Chapter 386 - 151, HRS

Fund Type (MOF): Special Fund (B)

Approp. Acct. No S-302-L

Intended Purpose: To pay benefits to injured workers for second injuries; uninsured, and insolvent employers; benefit adjustments; attendant services; and concurrent employment.

Current Program Activities: Payment of workers' compensation benefits, litigation costs, audit fees, and legal services through the Department of Attorney General.

**Financial Data**

	<u>FY 2004</u>	<u>FY 2005</u>
Beginning Cash Balance	23,589,380	22,774,926
Beginning Encumbrances		
Revenues	18,929,292	
Expenditures	(19,743,746)	
Transfers (List each transfer by JV# and date)		
Net Total Transfers	0	
Amount derived from bond proceeds		
Ending cash balance	22,774,926	
Amount required for bond covenants as of 7/1/04		
Amount held in Certificates of Deposit, escrow		
Accounts or other investments as of 7/1/04		



**Report on Non-General Fund Information**  
for Submittal to the 2005 Legislature

Department: Labor and Industrial Relations

Date: 09/24/04

Prepared by: Francis Kagawa

Phone 586-8887

Name of Fund: Special Fund for Disability Benefits (TDI)

Legal-Authority: Chapter 392 - 61, HRS

Fund Type (MOF): Special Fund (B)

Approp. Acct. No S-303-L

Intended Purpose: To pay TDI benefits for disabilities resulting from non-work related injuries or illnesses:

- Individuals who become disabled when unemployed; and
- Employees of bankrupt or non-complying employers.

Current Program Activities: Payment of temporary disability insurance benefits.

**Financial Data**

	<u>FY 2004</u>	<u>FY 2005</u>
Beginning Cash Balance	8,056,802	8,179,060
Beginning Encumbrances		
Revenues	208,342	
Expenditures	(86,084)	
Transfers (List Each Transfer by JV# and Date)		
Net Total Transfers	0	
Amount Derived from Bond Proceeds		
Ending Cash Balance	8,179,060	
Amount Required for Bond Covenants as of 7/1/04		
Amount held in Certificates of Deposit, Escrow		
Accounts, or Other Investments as of 7/1/04		



**Report on Non-General Fund Information**  
for Submittal to the 2005 Legislature

Department: Labor and Industrial Relations

Date: 09/24/04  
Prepared by: Francis Kagawa  
Phone 586-8887

Name of Fund: Premium Supplementation Fund (PHC)

Legal-Authority: Chapter 393 - 41, HRS

Fund Type (MOF): Special Fund (B)

Approp. Acct. No S-308-L

Intended Purpose: To pay premium supplementation to qualified employers and payment of health care expenses to eligible employees of non-complying or bankrupt employers.

Current Program Activities: Payment of premium supplementation and health care expenses.

**Financial Data**

	<u>FY 2004</u>	<u>FY 2005</u>
Beginning Cash Balance	3,482,161	3,478,617
Beginning Encumbrances		
Revenues	87,074	
Expenditures	(90,618)	
Transfers (List Each Transfer by JV# and Date)		
Net Total Transfers	0	
Amount Derived from Bond Proceeds		
Ending Cash Balance	3,478,617	
Amount Required for Bond Covenants as of 7/1/04		
Amount held in Certificates of Deposit, Escrow		
Accounts, or Other Investments as of 7/1/04		



**Report on Non-General Fund Information**  
for Submittal to the 2005 Legislature

Department: Labor and Industrial Relations

Date: 07/19/04  
Prepared by: Ricco V. Racela  
Phone 586-8902

Name of Fund: Unemployment Insurance Trust Fund

Legal-Authority: Chapter 383-385, HRS

Fund Type (MOF): Special Fund (B)

Approp. Acct. No S-312-L

Intended Purpose: To pay all unemployment compensation and benefits.

Current Program Activities: Includes activities related to collection of employer contributions and the payment of unemployment insurance benefits.

**Financial Data**

	<u>FY 2004</u>	<u>FY 2005</u>
Beginning Cash Balance	313,689,815	358,034,483
Beginning Encumbrances		
Revenues	202,579,857	
Expenditures	(158,235,189)	
Transfers (List Each Transfer by JV# and Date)		
Net Total Transfers	0	
Amount Derived from Bond Proceeds		
Ending Cash Balance	358,034,483	
Amount Required for Bond Covenants as of 7/1/04		
Amount held in Certificates of Deposit, Escrow		
Accounts, or Other Investments as of 7/1/04		



**Report on Non-General Fund Information**  
for Submittal to the 2005 Legislature

Department: Labor and Industrial Relations

Date: 07/19/04  
Prepared by: Ricco V. Racela  
Phone 586-8902

Name of Fund: Special Unemployment Insurance Admin Fund

Legal-Authority: Chapter 383-127, HRS

Fund Type (MOF): Special Fund (B)

Approp. Acct. No S-314-L

Intended Purpose: Payment of refunds, interest and expenditures deemed necessary in the administration of this chapter for which no allocations of federal administration funds have been made.

Current Program Activities: Administration of the Unemployment Insurance Program.

**Financial Data**

	<u>FY 2004</u>	<u>FY 2005</u>
Beginning Cash Balance	185,688	903,827
Beginning Encumbrances		
Revenues	1,362,096	
Expenditures	(643,957)	
Transfers (List Each Transfer by JV# and Date)		
Net Total Transfers	0	
Amount Derived from Bond Proceeds		
Ending Cash Balance	903,827	
Amount Required for Bond Covenants as of 7/1/04		
Amount held in Certificates of Deposit, Escrow		
Accounts, or Other Investments as of 7/1/04		



**Report on Non-General Fund Information**  
for Submittal to the 2005 Legislature

Department: Labor and Industrial Relations

Date: 09/20/04

Prepared by: Roy Umehira

Phone 586-8903

Name of Fund: Employment and Training Fund

Legal-Authority: Chapter 383-128,HRS

Fund Type (MOF): Special Fund (B)

Approp. Acct. No S-318L

Intended Purpose: To provide grants and subsidies to public and private agencies and non-profit corporations for employment, education and training services.

Current Program Activities: (A) Programs to create a more diversified job base for businesses  
(B) Programs where there are critical skill shortages in high growth industries  
(C) Programs to retrain unemployed workers  
(D) Programs for individuals who do not qualify for federal or state programs  
(E) Programs for individuals to improve career employment prospects

**Financial Data**

	<u>FY 2004</u>	<u>FY 2005</u>
Beginning Cash Balance	2,080,5827	1,980,542
Beginning Encumbrances		
Revenues	1,048,580	
Expenditures	(1,148,620)	
Transfers (List Each Transfer by JV# and Date)		
Net Total Transfers	0	
Amount Derived from Bond Proceeds		
Ending Cash Balance	1,980,542	
Amount Required for Bond Covenants as of 7/1/04		
Amount held in Certificates of Deposit, Escrow		
Accounts, or Other Investments as of 7/1/04		



2003-2004

ANNUAL REPORT TO  
THE HONORABLE LINDA LINGLE  
GOVERNOR OF THE STATE OF HAWAII

PRESENTED BY THE  
HAWAII LABOR RELATIONS BOARD

BRIAN K. NAKAMURA, Chair  
CHESTER C. KUNITAKE, Member  
KATHLEEN RACUYA-MARKRICH, Member

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## **I. INTRODUCTION**

Pursuant to Hawaii Revised Statutes (HRS) ' 89-5(a), the Hawaii Labor Relations Board (HLRB or Board) presents its annual report to the Governor describing its activities for fiscal year 2003 B 2004 (FY2004) and reflecting the status of the Board on June 30, 2004.

## **II. MISSION STATEMENT**

The mission of the Board is to enforce and protect the rights of employees and unions to organize and bargain collectively in balance with the employer=s rights to manage operations as provided by HRS Chapters 89 and 377 by fairly and efficiently resolving labor disputes brought before it. The Board is committed to promote the harmonious and cooperative relations between the parties.

In 2002, the Board also acquired jurisdiction to conduct de novo hearings on contests from citations issued by the Director of the Department of Labor and Industrial Relations (DLIR) through the Hawaii Occupational Health and Safety (HIOSH) Division and appeals from HIOSH=s findings in discrimination complaints involving retaliation for reporting safety and health violations. The Board=s mission pursuant to HRS Chapter 396 is to ensure the right of workers to a safe and healthful work environment and encourage employer and employee efforts to reduce injury and disease arising out of employment.

## **III. OVERVIEW**

### **Governing Constitutional Provisions and Statutes**

Private employees in the State of Hawaii have a constitutional right to organize. Article XIII, Section 1 of the State Constitution, provides that, APersons in private employment shall have the right to organize for the purpose of collective bargaining.@ The Hawaii Employment Relations Act (HERA) was enacted in 1945 and codified as HRS Chapter 377 to permit employees who are not subject to the Railway Labor Act or the National Labor Relations Act to participate in collective bargaining. The Hawaii Employment Relations Board (HERB) was created to administer the provisions of the HERA.

Similarly, in 1968, the State Constitution was amended to afford public employees in the State of Hawaii the right to organize for the purpose of collective bargaining. Article XIII, Section 2 of the State Constitution, provides that, APersons in public employment shall have the right to organize for the purpose of collective bargaining as provided by law.@ In 1970, the Legislature enacted Act 171, Session Laws of Hawaii, which was subsequently codified as HRS Chapter 89, Collective Bargaining in Public Employment, to encourage joint decision-making in administering government. The Act created the Hawaii Public Employment Relations Board (HPERB) to administer the provisions of HRS Chapter 89. In 1985, the Legislature abolished the HERB and transferred its functions to the HPERB and renamed it the Hawaii Labor Relations Board, effective January 1, 1986, to administer the provisions of both HRS Chapters 89 and 377.

Thereafter, in 2002, the Legislature enacted Act 104, Session Laws of Hawaii, which empowered the Board to conduct de novo hearings in reviewing contests from citations or orders of the Director of Labor and Industrial Relations involving occupational health and safety pursuant to HRS ' 396-11.<sup>1</sup>

### **Functions**

The Board is an agency within the DLIR for administrative and budgetary purposes. The Board exercises quasi-judicial powers with jurisdiction over disputes over collective bargaining in the public sector arising under HRS Chapter 89 and in the private sector, under HRS Chapter 377. Accordingly, the primary duties of its members are to hear and decide contested cases involving prohibited or unfair labor practice complaints and to render declaratory rulings on questions submitted. These cases typically involve an employer or union=s failure to bargain in good faith, an employer or union=s interference with an employee=s right to participate in or refrain from bargaining activities, or a union=s failure to fairly represent its members in the negotiation of agreements or the

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<sup>1</sup>Prior to 2002, the Labor and Industrial Appeals Board of the DLIR (LIRAB) heard contests filed under HRS ' 396-11.

pursuit of grievances. The Board also conducts union representation elections, supervises the impasse procedures in public employment, and issues declaratory rulings to clarify the applicability of governing statutes and its rules. In addition, the Board also resolves disputes involving bargaining unit designations and determines the appropriateness of dues refunds for nonmembers.

In the public sector, the Board has jurisdiction over state and county employees, judiciary employees, public school teachers, faculty of the University of Hawaii and community college system, employees of the Hawaii Health Systems Corporation, and charter school employees.

In the private sector, the Board similarly conducts representation elections and resolves unfair labor practice complaints. The Board has jurisdiction over primarily agricultural employees and employers and those private employees and employers who are not subject to the jurisdiction of the National Labor Relations Board. Typically, the employees are members of unions or are involved with organizing activities.

In addition, the Board decides contests and appeals of decisions rendered by the Director of Labor and Industrial Relations, State of Hawaii, through HIOSH under HRS Chapter 396. These cases are typically employer contests of citations and penalties issued and appeals in discrimination cases involving retaliation against employees for reporting safety and health violations.

### **Board Members**

The Board is composed of three members, one of whom is representative of management, one who is representative of labor and the third member, the Chair, who represents the public. Each member is appointed by the governor and confirmed by the Senate for six-year terms. Because cumulative experience and continuity in office are essential to the proper administration of HRS Chapter 89, the two-term appointment limit in HRS ' 26-34 is not applicable, and members can continue in office as long as efficiency is demonstrated. The Board is composed of the following:

**BRIAN K. NAKAMURA**, Chair, appointed July 1, 2000; annual salary \$77,964. Mr. Nakamura was an attorney in private practice who previously served for two years as general counsel for the Hawaii State Campaign Spending Commission and chief counsel for the Senate Judiciary Committee in 1997. From 1993 to 1996, he was the Executive Officer at the UH Hawaii Natural Energy Institute and prior to that time, served as chief of staff and legal officer in the Lieutenant Governor=s Office. Mr. Nakamura also served as U.S. Senator Daniel Inouye=s chief of staff and legal officer in his state office and chief of staff and legal officer in the U.S. Senate Sergeant-At-Arms Office, Washington, D.C., as well as legal counsel and legislative assistant to Senator Inouye in Washington, D.C.

Mr. Nakamura graduated from the University of Hawaii with a Bachelor of Arts degree from the College of Arts and Sciences in political science, a teaching certificate in secondary education from the College of Education, and a Juris Doctor degree from the William Richardson S. School of Law.

**CHESTER C. KUNITAKE**, Member, appointed February 20, 1997; annual salary \$74,065.92. Mr. Kunitake was the Public Policy Officer of the Hawaii Government Employees Association and worked for the union for over 26 years. Mr. Kunitake graduated from the University of Hawaii with a degree in business administration. Mr. Kunitake serves as the labor representative to the Board.

**KATHLEEN RACUYA-MARKRICH**, Member, appointed July 1, 2000; annual salary \$74,065.92. Ms. Racuya-Markrich served as press secretary to Governor Benjamin Cayetano for six years and previously served for seven years as a Deputy Attorney General in the Employment Law Division of the State Department of the Attorney General representing the public employer and specializing in employment litigation for seven years. Ms. Racuya-Markrich graduated from the William S. Richardson School of Law with a Juris Doctor degree and also with a Bachelor of Science in Foreign Service from Georgetown University, School of Foreign Service. Prior to law school, Ms. Racuya-Markrich worked in Washington, D.C. as a staff aide/secretary to the Administrative Assistant for U.S. Senator Spark Matsunaga and an immigration caseworker. Ms. Racuya-Markrich is the management representative to the Board.

## **Board Staff**

Pursuant to HRS ' 89-5(a), the Board may appoint the members of its staff. The legal clerk is in the civil service system and excluded from collective bargaining. Other staff members are exempt from civil service and excluded from collective bargaining. The staff is composed of the following:

Valri Lei Kunimoto, Executive Officer; annual salary \$79,999. The executive officer is legal counsel to the Board, represents the Board in the courts, and performs such legal and administrative duties as may be delegated by the Board Chair. Her administrative duties may include supervising the other staff members and editing Board publications and decisions.

Sau Lan Leung, Legal Clerk; annual salary \$31,200. The Legal Clerk performs a variety of clerical tasks; types Board decisions, orders, notices and legislative documents; prepares and files court documents, including pleadings, records on appeals, and briefs; and maintains the Board=s library.

## **IV. DATA ON THE PUBLIC SECTOR BARGAINING UNITS**

The collective bargaining law for public employees divides all State and county employees covered by Chapter 89, HRS, into 13 units based upon occupational and compensation plan groupings. These bargaining units, described in HRS ' -89-6(a), are as follows:

- (1) Nonsupervisory employees in blue collar positions;
- (2) Supervisory employees in blue collar positions;
- (3) Nonsupervisory employees in white collar positions;
- (4) Supervisory employees in white collar positions;
- (5) Teachers and other personnel of the department of education under the same pay schedule, including part-time employees working less than twenty hours a week who are equal to one-half of a full-time equivalent;
- (6) Educational officers and other personnel of the department of education under the same pay schedule;
- (7) Faculty of the University of Hawaii and the community college system;
- (8) Personnel of the University of Hawaii and the community college system, other than faculty;
- (9) Registered professional nurses;
- (10) Institutional, health and correctional workers;
- (11) Firefighters;
- (12) Police officers; and
- (13) Professional and scientific employees, who cannot be included in any of the other bargaining units.

It is customary to refer to the bargaining units by the numbers used in HRS ' 89-6(a). For example, the unit consisting of firefighters is referred to as Unit 11.

## **Exclusive Representatives**

All 13 public employee collective bargaining units have selected employee organizations to serve as their exclusive representatives. Throughout the remainder of this report, the following abbreviations will be used to refer to the respective exclusive representatives (or unions):

HFFA	Hawaii Fire Fighters Association, Local 1463, IAFF, AFL-CIO
HGEA	Hawaii Government Employees Association, AFSCME, Local 152, AFL-CIO
HSTA	Hawaii State Teachers Association
SHOPO	State of Hawaii Organization of Police Officers

UHPA            University of Hawaii Professional Assembly (NEA-AAUP)  
 UPW            United Public Workers, AFSCME, Local 646, AFL-CIO

**Number of Employees in Units**

The following table indicates, for each bargaining unit, the number of employees who are included in the unit, the union and the date that the union was initially selected and certified as the exclusive representative.

<b>Unit</b>	<b>No. of Employees</b>	<b>Exclusive Representative</b>	<b>Date of Initial Certification</b>
01	8,603 <sup>2</sup>	UPW	10/20/71
02	810	HGEA	10/20/71
03	13,571	HGEA	04/03/72
04	852	HGEA	05/03/72
05	12,766	HSTA	05/21/71
06	751	HGEA	06/10/71
07	3,438	UHPA	11/01/74
08	1,558	HGEA	01/26/73
09	1,341	HGEA	07/10/79
10	2,871	UPW	02/11/72
11	1,819	HFFA	02/04/72
12	2,697	SHOPO	07/14/72
13	7,002	HGEA	05/03/72

**V. CASES BEFORE THE BOARD DURING FY 2004**

**Code Used to Designate Cases**

**Public Sector**

Each public sector petition filed with this Board is assigned a case number designated by a three-part code. The first part indicates the type of proceeding; the second part indicates the number of the bargaining unit referred in the petition; and the third part indicates the chronological number in the series for that type of case.

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<sup>2</sup>These figures are from HLRB Informational Bulletin No. 42, dated May 14, 2004, which was compiled from data supplied by the public employers. These figures are current as of December 31, 2003.

For example, ACase No. CE-05-03@ is interpreted as follows:

- CE indicates the case is a prohibited practice complaint against an employer;
- 05 indicates the case concerns Unit 05; and
- 03 indicates this is the third case filed in the CE series.

The following code letters represents the types of cases:

<u>Code Letters</u>	<u>Type of Case</u>
R	Representation
RD	Decertification
RA	Clarification or Amendment of Appropriate Bargaining Unit
CE	Prohibited Practice Complaint Against an Employer
CEE	Prohibited Practice Complaint Against an Employee
CU	Prohibited Practice Complaint Against an Exclusive Representative
I	Impasse
DR	Declaratory Ruling
PD	Review of Refunds
PE	Petition for Enforcement of Board Order
RM	Rulemaking

### **Private Sector**

Each private sector petition filed with this Board is assigned a case number designated by a three-part code. The first part indicates the year in which the case was filed; the second part indicates the chronological number for cases filed within the year; and the third part indicates the type of case.

For example, ACase No. 04-1(RD)@ is interpreted as follows:

- 04 indicates the case has been filed in 2004;
- 1 indicates this is the first case filed in 2004; and
- (RD) indicates the case is a de-certification case.

The following code letters represents the types of cases:

<u>Code Letters</u>	<u>Type of Case</u>
R	Representation
RD	Decertification
RA	Determination of Collective Bargaining Unit
CE	Unfair Labor Practice of Employer
CEE	Unfair Labor Practice of Employee
CU	Unfair Labor Practice of Exclusive Representative
DR	Declaratory Ruling

### **Occupational Safety and Health**

Each contest filed with the Board is assigned a two-part case number. The number following OSAB<sup>3</sup> or OSH<sup>4</sup> designation indicates the year in which the case was filed; the second part indicates the chronological number for cases filed within the year.

For example, ACase No. OSH 2004-1@ is interpreted as follows:

- 03 indicates the case has been filed in 2004; and
- 1 indicates this is the first case filed in 2004.

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<sup>3</sup> Occupational Safety Appeals Board, which is the designation assigned previously by LIRAB.

<sup>4</sup> Occupational Safety and Health, which is the designation assigned by the Board in 2003.

## Case Statistics

The following represents the cases filed and pending before the Board in FY 2004:

Type of Case	Pending 6/30/03	Filed	Closed	Pending 6/30/04
<b>Public Sector</b>				
Prohibited Practice against Employer	20	30	22	28
Prohibited Practice against Union	6	10	13	3
Impasse	12	0	10	2
Declaratory Ruling	2	2	1	3
Investigation	1	0	0	1
<b>Private Sector</b>				
Representation	0	0	0	0
Decertification	0	1	0	1
Unfair Labor Practice against Employer	1	0	1	0
Unfair Labor Practice against Union	0	0	0	0
Type of Case	Pending 6/30/03	Filed	Closed	Pending 6/30/04
<b>HIOSH Appeals</b>				
Citation	15	11	19	7
Discrimination	3	9	3	9
<b>Total</b>	<b>60</b>	<b>63</b>	<b>69</b>	<b>54</b>

A total of 63 cases (42 public sector, 1 private sector, and 20 HIOSH cases) were filed with the Board during the past fiscal year. The Board closed 59<sup>5</sup> cases as described in Appendix A. During the past fiscal year, the Board conducted 65 prehearing or status conferences, 55 motions hearings, and 65 days of hearings on the merits of the contested cases before it. The Board issued seven decisions relating to collective bargaining and 60 orders, including 38 orders disposing of the cases. The Board also issued three Occupational Safety and Health decisions and 48 orders, including 17 dispositive orders. The Board was also party to 20 court appeals or proceedings.

One measure of the Board=s efficiency is whether the case was disposed of within 30 days of submission. During FY2004, the Board closed 41 of the 59 cases or 69% of the cases within 30 days. These cases vary in complexity; some involving issues affecting one employee and others affecting the rights of a large number of employees. Some petitions filed did not result in formal Board decisions because they were either withdrawn by the petitioners or the cases were settled by the parties at some point in the proceedings with the Board=s approval. Motions filed with the Board are not counted as separate filings and are disposed of by Order rather than Decision.

### Cases Closed During FY 2004

The chart in Appendix A provides information on the cases closed by the Board during FY 2004.

### Cases Pending on June 30, 2004

The chart in Appendix B provides information on the cases pending before the Board on June 30, 2004.

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<sup>5</sup>The difference in the numbers between the above chart and the chart in Appendix A is because the cases may involve more than one bargaining unit or multiple parties.

**Cases on Appeal in the Courts in FY 2004**

The chart in Appendix C provides information on the cases in the courts.

**VI. PUBLICATIONS**

1. HLRB Decisions: The Board, working with the Industrial Relations Center (IRC), University of Hawaii, publishes the Board's decisions in loose-leaf binders for sale on a subscription basis. Thus far Volume 1, containing Decision Nos. 1 through 85 covering the years 1971-77; Volume 2, containing Decision Nos. 86 through 155 covering the years 1978-81; Volume 3, containing Decision Nos. 156 through 209 covering the years 1982-85; Volume 4, containing Decision Nos. 210 through 311 covering the years 1986-90; Volume 5, containing Decision Nos. 312 through 393 covering the years 1991-97; and Volume 6 containing Decision Nos. 394 to 445 have been issued.

The Board also distributes copies of its decisions as they are rendered to the respective parties in interest, the State agencies as required by HRS ' 93-3, the IRC, and the Center for Labor Education and Research.

2. Informational Bulletin: Each year the Board issues an Informational Bulletin which provides, by employing jurisdictions, the number of public employees in each of the 13 collective bargaining units established by HRS ' 89-6(a). The figures are compiled from data supplied by the public employers.

3. Website: The DLIR revised its website in 2004 which includes the Board=s rules and forms, and recent decisions.

**VII. CONCLUSION**

In reviewing the case activity for labor relations cases for this fiscal year, the Board believes it has continued to meet its goals of fairly administering the provisions of HRS Chapters 89 and 377, credibly and objectively resolving labor-management disputes, promoting good faith and harmony in labor relations. With respect to the HIOSH contests, the Board conducted de novo hearings on the contests of citations and decisions in discrimination cases and endeavors to provide a forum for the fair and efficient adjudication of safety and health contests.

As all of the bargaining unit contracts expire on June 30, 2005, except for the Unit 07 University of Hawaii and community college faculty, most units are already at impasse and poised to proceed through binding arbitration. The remaining units are continuing to negotiate at the bargaining table. Impasses in these units will be declared by February 1, 2005 pursuant to HRS Section 89-11.

As for its own internal procedures, the Board will be proceeding through rulemaking on specific issues and its procedural rules governing HIOSH appeals under HRS Chapter 396.

Respectfully submitted,

/s/ \_\_\_\_\_  
BRIAN K. NAKAMURA, Chair

/s/ \_\_\_\_\_  
CHESTER C. KUNITAKE, Member

/s/ \_\_\_\_\_  
KATHLEEN RACUYA-MARKRICH, Member

Dated: January 18, 2005  
Honolulu, Hawaii

# **Annual Report**

**July 1, 2003 — June 30, 2004**

# **Hawaii Civil Rights Commission**

**Linda Lingle,  
Governor**

**Nelson B. Befitel,  
Director, Department of Labor & Industrial Relations**

**Harry Yee, Coral Wong Pietsch  
Commission Chairs**

**William Hoshijo,  
Executive Director**

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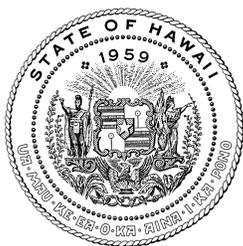
## **Case Decisions**

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## **Mission Statement**

**The mission of the Hawaii Civil Rights Commission is to eliminate discrimination by protecting civil rights and promoting diversity through enforcement of anti-discrimination laws and education.**

## **Overview: Fair and Effective Enforcement**

The state of Hawaii has a strong commitment to the protection of civil rights. Article I, Section 5 of the Hawaii Constitution provides that “no person shall ... be denied the enjoyment of ... civil rights or be discriminated against in the exercise thereof because of race, religion, sex or ancestry.” The legislature gave meaning to this commitment by creating the Hawaii Civil Rights Commission (HCRC) through the enactment of Act 219 in 1988 and Acts 386 and 387 in 1989.

The HCRC was organized in 1990 and officially opened its doors in January 1991. For thirteen years the HCRC has enforced state laws prohibiting discrimination in employment (H.R.S. Chapter 378, Part I), housing (H.R.S. Chapter 515); public accommodations (H.R.S. Chapter 489), and access to state and state-funded services (H.R.S. §368-1.5). The HCRC receives, investigates, conciliates, and adjudicates complaints of discrimination.

The HCRC has five volunteer Commissioners. The Commissioners are appointed by the Governor, with the consent of the Senate, based on their knowledge and experience in civil rights matters and commitment to preserve the civil rights of all individuals.

The HCRC is attached to the Department of Labor & Industrial Relations (DLIR) for administrative purposes. The HCRC has a staff of thirty (30) persons who are divided into separate enforcement and adjudication sections.

## **An Effective And Uniform Enforcement Scheme**

Prior to the establishment of the HCRC, jurisdiction over state anti-discrimination laws was split among several state departments. Enforcement was limited and sporadic. State litigation to enforce fair employment practices laws was virtually non-existent. The only recourse for those aggrieved was to bring their own cases to court. Few employment discrimination cases brought under state law were adjudicated, and there was little case law. For complainants who could not afford to hire private attorneys to seek relief in court, there was no administrative process to adjudicate their claims.

The intent of the legislature in creating the HCRC was “...to establish a strong and viable commission with sufficient ... enforcement powers to effectuate the State’s commitment to preserving the civil rights of all individuals.”<sup>1</sup> The cornerstone of the HCRC statutory scheme was the establishment of a uniform procedure “...designed to provide a forum which is accessible to anyone who suffers an act of discrimination.”<sup>2</sup>

## **A Fair Administrative Process**

The HCRC is committed to, and its procedural safeguards are structured to ensure, fairness to both complainants and respondents. The HCRC is a five-member Commission with jurisdiction to enforce state civil rights laws. The HCRC is divided into two separate and distinct sections: the enforcement section, which receives, investigates, and prosecutes discrimination complaints; and the adjudication section which hears, issues orders and renders final determinations on complaints of discrimination filed with the HCRC.

The Commissioners have delegated HCRC enforcement authority to the Executive Director. The Commissioners retain the authority to adjudicate and render final decisions based on the recommendations of their Hearings Examiner, and oversee the adjudication section through their Chief Counsel.

The Commissioners and adjudication section are not involved in or privy to any actions taken by the Executive Director in the investigation and pre-hearing stages of the HCRC process. Likewise, the Executive Director and enforcement section are not permitted to communicate *ex parte* with the Commissioners or adjudication section about any case.

The enforcement section investigates complaints of discrimination as a neutral fact-gatherer. At the conclusion of an investigation, a determination is made whether or not there is reasonable cause to believe unlawful discrimination has occurred.

The law requires filing of a complaint with the HCRC before filing a discrimination lawsuit in state court. Otherwise, the circuit court will dismiss a lawsuit for failure to exhaust administrative remedies. This requirement prevents overburdening the courts with non-judicial and non-meritorious cases, as well as cases that can be closed or settled in the administrative process. The great majority of cases filed with the HCRC are resolved and/or closed without resort to the courts.

## **Civil Rights Law Enforcement: State & Federal Law**

Federal fair employment and fair housing laws are enforced by the U.S. Equal Employment Opportunity Commission (EEOC) and U.S. Department of Housing and Urban Development (HUD), respectively. Pursuant to workshare cooperative agreements, both EEOC and HUD rely on the HCRC to investigate complaints filed under both state and federal law (“dual-filed” complaints).

While Hawaii and federal fair employment and fair housing laws are similar, they are not identical. Hawaii has protected bases that are not covered under federal law, and there are substantial differences in the definition of

“employer” and the statute of limitations for filing a charge of employment discrimination. In addition to these jurisdictional differences, Hawaii law provides stronger protection against pregnancy discrimination, sexual harassment, and disability discrimination in employment.

The greater protections in Hawaii law are attributable to the strong civil rights mandates contained in the Hawaii State Constitution, HCRC statutes, HCRC rules, HCRC Commission decisions, and state court caselaw. In contrast, federal court interpretations of federal civil rights laws have resulted in fewer protections against discrimination, particularly in the areas of disability and sexual harassment. The issue of state versus federal standards is an important one, particularly in states like Hawaii which have a historically strong commitment to equal opportunity and non-discrimination.

There is a trend towards limiting jurisdiction and process under civil rights statutes: sovereign immunity barring individual claims against the states under certain federal civil rights statutes; free speech and free exercise of religion claims raised in defense of discrimination complaints; and equal protection and other constitutional claims raised to challenge enforcement processes. In this context, strong enforcement of state civil rights laws is more important than ever before.

## **The HCRC Today**

During FY 2003 - 2004, the HCRC experienced significant changes in management and attorney staff, with the appointment of the Deputy Executive Director and four enforcement attorneys. In addition, three of five HCRC Commissioners were appointed during FY 2004. With these key positions filled, staff and Commissioners have renewed efforts to maintain and improve the HCRC's enforcement and public education activities:

**Investigation and charge processing.** HCRC Commissioners and staff, with input from a working group of stakeholders (complainant attorneys, respondent attorneys, government attorneys and EEO officers, employers and employer organizations, labor organization representatives, and civil rights organizations and advocates), focused efforts on ways to improve efficiency in the investigation process without sacrificing effective civil rights law enforcement.

**Mediation.** The HCRC's voluntary mediation program completed its fifth full year of operation, working with the Mediation Centers of Hawaii on Oahu, Hawaii, Maui, and Kauai. 24 cases settled in mediation for monetary total relief exceeding \$300,000, with settlements in 83% of the cases referred to mediation.

**Public education.** The HCRC continued its commitment to prevent and eliminate discrimination through public education. HCRC staff made numerous presentations on civil rights and discrimination to labor, business, professional organization, civil rights advocacy, and other community organization audiences. Highlighted public education efforts included fair housing training on Kauai, Maui, Hawai'i, and Oahu, and outreach and education efforts co-sponsored by the U.S. Equal Employment Opportunity Commission on Kauai and Hawai'i. The HCRC implemented its plan to hold regularly scheduled training on an annual basis in Honolulu, as a better use of limited resources to reach a broader audience. An updated and enhanced HCRC website was also an effective outreach tool, recording nearly 180,000 hits during FY 2004, or an average of nearly 15,000 hits per month.

**Litigation.** During FY 2004, the HCRC was involved in two cases before the Hawai'i Supreme Court, one involving the definition of "disability" under state law, and the other review of a declaratory ruling on the scope of HCRC jurisdiction to accept and investigate sex discrimination complaints.

The HCRC Commissioners and staff continue their unwavering commitment to the HCRC mission - to eliminate discrimination by protecting civil rights and promoting diversity through enforcement of anti-discrimination laws and education. We renew our pledge to fair and effective enforcement, so that no person shall be denied his or her civil rights under Hawaii law.

### **Objectives and Goals for 2004-2005:**

#### **Case Inventory:**

The HCRC is committed to maintaining its case inventory at a level that allows for timely investigation of complaints as well as allocation of sufficient resources for complex and meritorious complaints. HCRC Commissioners and staff will make and implement plans for reducing the length of time to investigate complaints, setting measurable targets and goals for performance. Special focus will be placed on reducing older case inventory.<sup>3</sup>

#### **Voluntary Mediation Program:**

The HCRC will continue to improve and expand its voluntary mediation program to encourage and offer mediation in more cases. A pilot program will be implemented to utilize mediation in housing discrimination cases.

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## Public Awareness

The HCRC will continue to focus and work with federal, state, business, labor, and community partners to expand outreach and public education statewide, especially on the neighbor islands, and will explore expanded public-private partnerships as a means to develop user-friendly public education resources. The HCRC will continue to offer scheduled introductory training for the public on civil rights laws on a regular basis.

The accompanying report is submitted pursuant to H.R.S. §§ 368-4 and 515-9.

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<sup>1</sup>1989 House Journal, Standing Committee Report 372.

<sup>2</sup>Id.

<sup>3</sup> Aged case reduction is a priority for the HCRC, as well as for HUD and EEOC.

## **Mediation Program**

HCRC's voluntary mediation program successfully completed its fifth full fiscal year on June 30, 2004. Complainants, respondents, and the HCRC, with the strong support of all the Commissioners, want prompt and fair resolutions to discrimination complaints. To help accomplish this goal, the HCRC developed its voluntary mediation program, a process in which neutral third parties (usually a team of two co-mediators) help the involved individuals discuss, clarify, and settle complaints.

Mediators are unbiased and do not rule on the merits of the complaint. Rather, the HCRC provides them with the basic facts of each case needed to understand the dispute. The mediators then assist parties in reaching agreements such as simple apologies, policy changes, monetary settlements, or other appropriate solutions. Mediation saves time, money and resources, and reduces stress by allowing the parties to explain their side of the case and to control the process of resolving their dispute in a non-adversarial manner.

HCRC works with trained, senior mediators from the Mediation Centers of Hawaii (MCH), a statewide network of community non-profit mediation centers. MCH mediators are trained in civil rights laws by HCRC staff on a regular basis. An HCRC mediation coordinator facilitates the process by explaining mediation and its benefits to the parties. There are mediation centers on Oahu, Maui, Hawaii, and Kauai. The centers charge nominal fees for the sessions, which can be waived or reduced where there is a situation of financial hardship. Private mediation is also available, at a higher cost, if the parties choose.

Mediation can occur at any stage of the complaint process. Mediation is first offered when the complaint is accepted, because disputes are often easier to resolve while the facts are fresh and before potential damages accumulate and the positions of the parties become rigid.

During FY 2003-2004, 42 cases were referred into mediation; 29 were disposed of (completed) during the year, with 24 of those cases resulting in mediated settlements. This represented an 82.8% overall settlement rate, which was up from a 54% settlement rate last year. The total monetary value of mediated agreements was up by 40.1% to \$323,117. Most of the completed mediations (72.4%) were by the Mediation Center of the Pacific in Honolulu; followed by private mediation (20.7%) and the Ku'ikahi Mediation Center in Hilo (6.9%).

The most typical primary protected bases of completed mediations were: disability (27.6%); race, age, and arrest & court record (13.8% each). Other primary protected bases included: sex, retaliation, religion, and sexual orientation. Employment cases accounted for all 42 referrals.

The program has received high marks in satisfaction. Evaluations are sent to the parties in all mediated cases. The average rating of whether parties "would recommend the program to others," was a 4.2 (on a 1-5 scale, with 5 being "strongly agree").

The following are some examples of cases settled in mediation:

- A complainant who alleged she was terminated from her position with a government agency based on articles appearing in a local newspaper about her arrest, brought a complaint for arrest and court record discrimination. In mediation with the agency, the complainant reached a \$5,000 settlement and the agency agreed to reinstate her.
- A non-profit organization allegedly subjected an employee to religious harassment and retaliation after she complained to the manager. She was terminated from her position of Administrative Assistant, earning \$27,000/year. The complainant alleged preferential treatment given to her co-workers of a different religious denomination, verbal abuse about her religion, and that the organization hired only employees of a certain denomination. The Mediation Center of the Pacific helped the parties settle the dispute for \$30,000.
- A female employee with a large private company alleged sexual harassment (verbal, visual, and physical) by a co-worker, creating a hostile and offensive work environment. Complainant was also allegedly subjected to retaliation after reporting the harassment and was constructively discharged from her position of Dispatcher/Receptionist, earning \$9.00/hour. In private mediation, a monetary settlement was reached of \$28,000.
- A complainant alleged she was subjected to racial harassment and unequal terms/conditions. She was constructively discharged from her job as sales executive, earning commissions with a media company. She believed she was discriminated against because of her race (African-American) based on her allegations of a verbal hostile and offensive working atmosphere and preferences given to employees of other ethnic backgrounds. In private mediation a global settlement was reached of the civil rights claims and pending civil actions in court. Monetary consideration was \$30,000.
- An employee alleged she was terminated from her position of Medical Assistant with a small health provider, earning \$14.00/hour,

which she held for 5 years, on the basis of her disability. Complainant alleged that she asked her supervisor if she was being terminated because of her disability, and the supervisor answered, "yes." The Mediation Center of the Pacific assisted in a monetary settlement of \$15,000 and a letter of reference.

- A male employee who worked for a computer company alleged he was terminated from his position of Direct Marketer/ Telemarketer, earning \$12.00/hour. The complainant alleged he was discriminated against because of his race (African-American), based on allegedly not being given a job description, not properly trained, and subjected to verbal abuse. The Mediation Center of the Pacific assisted the parties in reaching a monetary settlement of \$7,500 and a letter of reference.
- A sales executive for a large media group alleged he was discriminated against based on his age, then 62 years old. The employee alleged he was assigned less favorable new accounts than younger sales executives, lost some of his "revenue" accounts re-assigned to younger sales executives, and was told by upper management that they thought a younger sales executive would probably do better than complainant did with his accounts. The president of the company allegedly told the complainant before assembled staff that "old spark plugs" needed to be changed and the company needed to get "new spark plugs". The Mediation Center of the Pacific helped the parties to reach a settlement of \$11,200 and cessation of any further unfavorable remarks regarding the complainant.
- A bookseller, employed for three years by a large national bookstore chain and earning \$8.75/hour, alleged harassment on the bases of his sexual orientation and age. He alleged that he was subjected to increased scrutiny, warnings, delay of breaks, no accommodations to his schedule, and rejection for promotions because "he did not fit the profile". In private mediation, the parties agreed to a monetary settlement of \$12,500, neutral job references, and modification of personnel records to reflect the facts.
- Four consolidated cases in which reasonable cause to believe discrimination had occurred ("cause" cases), were settled through private mediation \$150,000 and are described in greater detail in the case settlements section of this annual report.

Although monetary settlements were achieved in most agreements, all mediated agreements involved some form of non-monetary affirmative

relief. Typical examples of non-monetary relief in this year and prior years include:

- 1) frank discussion of disputes, which often lay the groundwork for eventual settlement or restoration of the prior employment relationship;
- 2) restoration of employee benefits;
- 3) formal apology (by either or both sides);
- 4) increasing hours for part-time employees;
- 5) providing neutral or positive references for former employees;
- 6) removal of inappropriate negative comments in employee records;
- 7) provision of reasonable accommodations;
- 8) changing shifts when practicable;
- 9) policy revisions and postings; and
- 10) clarifications of communications between employer and employee, leading to more productive working environments.

## Public Education & Outreach

In addition to enforcing anti-discrimination laws, the HCRC is committed to preventing and eliminating discrimination through public education. The HCRC Commissioners and staff have maintained a number of public education efforts, working with civil rights, business, labor, professional, and non-profit organizations, on new and continuing initiatives.

On October 9, 2003, the HCRC conducted its first annual general public training. A diverse capacity crowd of nearly 100 organizational representatives and individuals attended the event, which was held in the DLIR conference room,. The audience comprised 41.5% government agencies and 58.5% private sector (including nonprofits, individuals, unions, and businesses) attendees. The training evaluations returned by attendees showed that 96% said they would recommend this training to their colleagues.

The public is encouraged to reserve seats for future annual trainings to be held in October by calling the HCRC office and completing a "Request for Speaking Engagement" form, which includes a reservation section. HCRC is also considering more advanced trainings in the future.

HCRC staff conducted presentations and outreach activities for the following organizations and events:

- Hawaii Medical Services Association
- Honolulu Community College
- Organization of Chinese Americans
- Honolulu Police Department Project Outreach
- Community Homebuyers Fairs
- DLIR business fair for contractors
- Annual Martin Luther King, Jr. Holiday Parade
- NAACP Martin Luther King, Jr. Banquet
- 50th Anniversary of *Brown v. Board of Education*
- Assistance to Spectrum Seminars on fair housing laws
- Trinity Broadcast Network (Fair Housing Month)
- Hawaii District Conference (commemorating *Brown v. BOE*)
- International Peace Poem Project (Black History Month)
- Fair housing trainings at Maui Community College, Blaisdell Center
- University of Hawaii at Manoa sexual diversity panel
- Gay Pride Festival
- Annual training for mediators in civil rights law

The HCRC independent website received 179,707 hits during the fiscal year. This was a 25.7% increase over fiscal year 2003. Analysis of the state webmaster's detailed monthly index indicates that the site continued to receive a broad range of hits from the public, businesses, non-profits, government, and the

bar. Website usage by the public has increased every year since HCRC began the site.

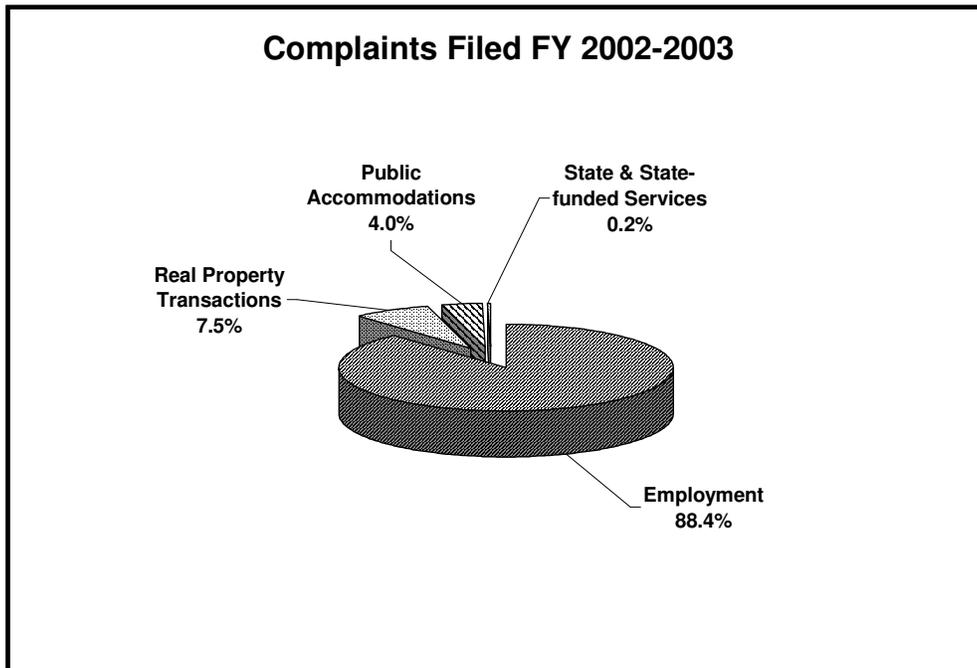
The HCRC wishes to express its deepest appreciation to Dr. William Puette of the University of Hawaii, Center for Labor Education & Research for his voluntary efforts in designing and maintaining an excellent website.

## Caseload Statistics

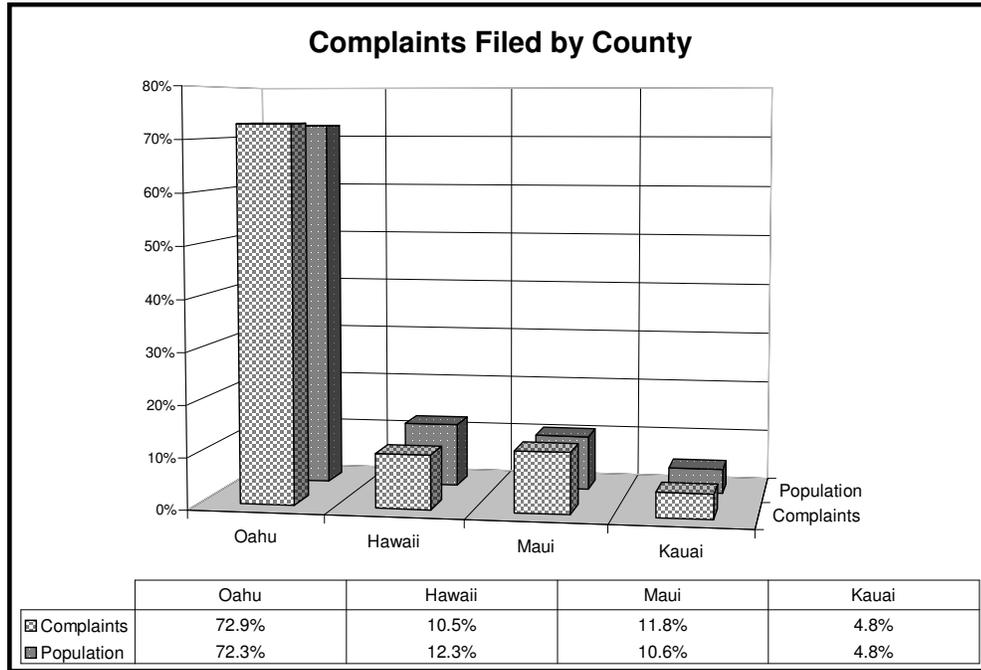
### Intake

During FY 2003-2004, the HCRC received nearly 5000 telephone and walk-in inquiries (4923). 782 intakes were completed by HCRC investigators during FY 2003-2004. 628 complaints of discrimination were filed with HCRC, or an average of 52 cases a month.

Of the 628 complaints that were filed with the HCRC, 419 complaints originated with HCRC investigators (averaging 35 per month), and 209 cases originated with the federal Equal Employment Opportunity Commission (“EEOC”). These 209 cases are dual-filed under state law with HCRC. The 628 cases included 555 employment cases, 25 public accommodations cases, 47 housing cases, and 1 case involving state and state-funded services. The other inquiries and intake interviews did not lead to filed charges due primarily to: a) lack of jurisdiction; b) failure to correlate the alleged act(s) with the protected basis or bases; or c) a complainant's decision not to pursue the complaint.



The 628 charges accepted by HCRC consisted of 458 Oahu complaints, 66 Hawai'i County complaints, 74 Maui County complaints, and 30 Kauai County complaints. The number of complaints filed from each county was consistent with its proportion of resident population in the state.



## Closures<sup>4</sup>

HCRC investigators and attorneys closed 442 cases during FY 2003-2004, down from 471 cases in FY 2002-2003, for an average closure rate of 36.83 cases per month in FY 2003-2004, down from 39.25 cases per month in FY 2002-2003. In addition to the 442 closures during the fiscal year, HCRC investigations resulted in

### <sup>4</sup> ANALYSIS AND EXPLANATION OF CLOSURE DATA

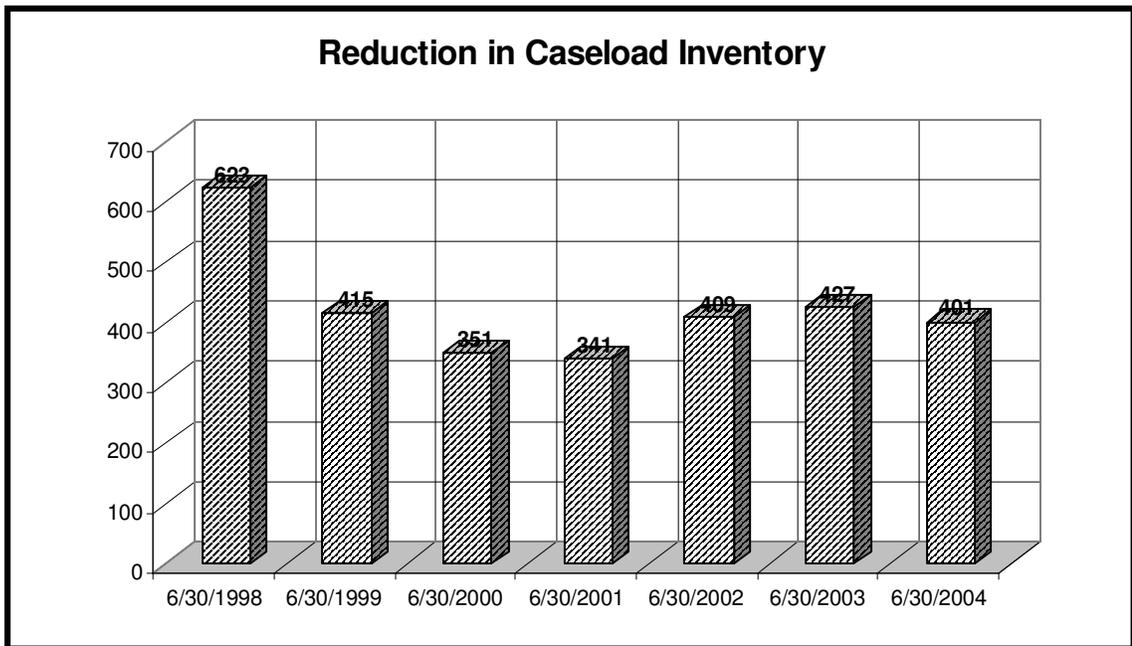
This closure data does not reflect the number of completed investigations that result in cause recommendations and determinations. Generally, the reason for this distinction is that cases are not closed upon issuance of a notice of cause, but are then conciliated, and, if conciliation fails, are docketed for hearing.

Historically, there is a relationship between the number of cause cases and predetermination settlements/resolutions between parties—the larger the number of notices of cause, the smaller the number of settlements/resolutions, and vice versa. Typically, cause recommendations and settlements/resolutions constitute between 15-25% of the total of those cases that are either investigated to a cause/no cause determination or settled or resolved by predetermination settlement or resolution between the parties.

During FY 2003-2004, HCRC investigations resulted in 22 cause recommendations, and 52 cases were closed on the basis of pre-determination settlement or resolution between parties. 291 cases were closed on the basis of no cause determinations upon completion of investigation. The ratio of cause cases and predetermination settlement/resolution (77) to no cause cases (291) for this fiscal year is 26%.

cause determinations in 22 cases.

As of June 30, 2004, there were 401 cases pending with HCRC investigators. Through its prioritized charge processing system and specialization in investigation, the HCRC has maintained its inventory at consistent levels over the past five fiscal years. Maintaining this reduced case inventory brings the HCRC closer to the optimum caseload of 30 cases per investigator, as recommended by the Legislative Auditor in "A Study on Implementation of the Civil Rights Commission for the State of Hawai'i" (Report No. 88-9, January 1989). In order to maintain the case inventory at this level, however, HCRC must continue to close approximately 450 cases each fiscal year.



The HCRC has continued to maintain an average closure period of approximately eleven months. The average period for case closure by investigators was 348 days, as compared to 342 days for FY 2002-2003 and 351 days for FY 2001-2002. A review of this fiscal year shows the following reasons for closures:

	No. of Cases	% of Subtotal	% of Total Closures
<b>Merit Closures</b>			
Resolved by Parties	42	11.70%	9.50%
Pre-Determination Settlements	10	2.79%	2.26%
Cases Settled or Otherwise Resolved After a Cause Determination	16	4.45%	3.62%
No Cause Determinations	<u>291</u>	<u>81.06%</u>	<u>65.84%</u>
<b>Subtotal</b>	<b>359</b>	<b>100.0%</b>	<b>81.22%</b>
<b>Non-merit Closures</b>			
Complainant Elected Court Action	46	55.43%	10.41%
No Jurisdiction	4	4.82%	0.90%
Complaint Withdrawn	9	10.84%	2.04%
Complainant Not Available	8	9.64%	1.81%
Complainant Failed to Cooperate	13	15.66%	2.94%
No Significant Relief Available	<u>3</u>	<u>3.61%</u>	<u>0.68%</u>
<b>Subtotal</b>	<b>83</b>	<b>100.0%</b>	<b>18.78%</b>
<b>Total Number of Closures</b>	<b>442</b>		<b>100%</b>

## Employment Cases

H.R.S. Chapter 378, Part I prohibits discriminatory employment practices based on race, sex, sexual orientation, age, religion, color, ancestry, disability, marital status, arrest and court record, assignment of income for child support obligations, National Guard participation, or breast feeding/expressing milk. Examples of such practices are outlined in H.R.S. § 378-2.

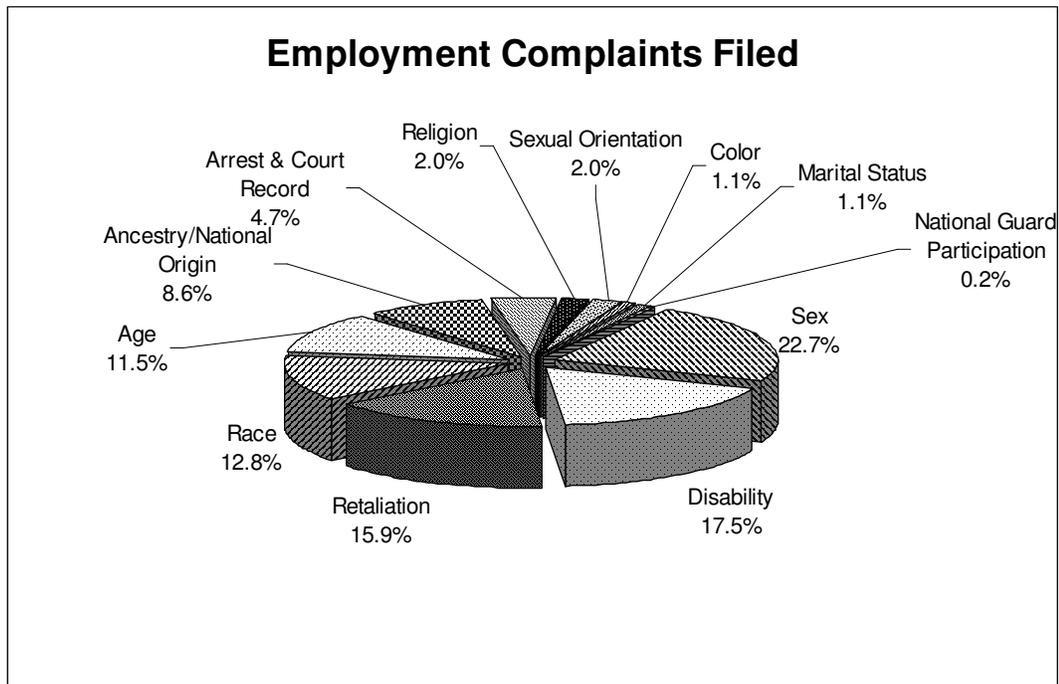
The HCRC has a work-share agreement with EEOC. Where there is concurrent jurisdiction, a case is filed with both agencies, but only the intake agency conducts the investigation, thereby eliminating duplicate enforcement activity. During the fiscal year a total of 555 employment cases were accepted by the HCRC. HCRC was the intake agency for 346 of these cases, and HCRC dual-filed another 209 cases originating with EEOC. Of the HCRC-originated cases, 78.9% were also filed with EEOC.

Of the 555 employment cases accepted in FY 2003-2004, sex was the basis cited most often, with 126 cases, accounting for 22.70% of all employment discrimination cases. Within the sex category, 50 cases alleged sexual harassment (40% of all sex cases) and 33 cases were based on pregnancy (26% of all sex cases).

Disability was the second most common basis with 97 cases, representing 17.48% of all employment cases. Retaliatory conduct was next with 88 cases, representing 15.86% of accepted employment cases, followed by race discrimination with 71 cases (12.79%), and age discrimination with 64 cases (11.53%).

There were 48 cases based on ancestry/national origin discrimination (8.65%); 26 cases based on arrest & court record (4.69%); 11 cases based on religion (1.98%); 11 cases based on sexual orientation (1.98%); 6 cases based on color (1.08%); and 6 cases based on marital status (1.08%). There was 1 case based on National Guard participation (0.18%) and there were no cases based on child support obligations.

The case closure period averaged 355 days for the 366 employment cases that were closed (or caused) by HCRC investigators during FY 2003-2004.



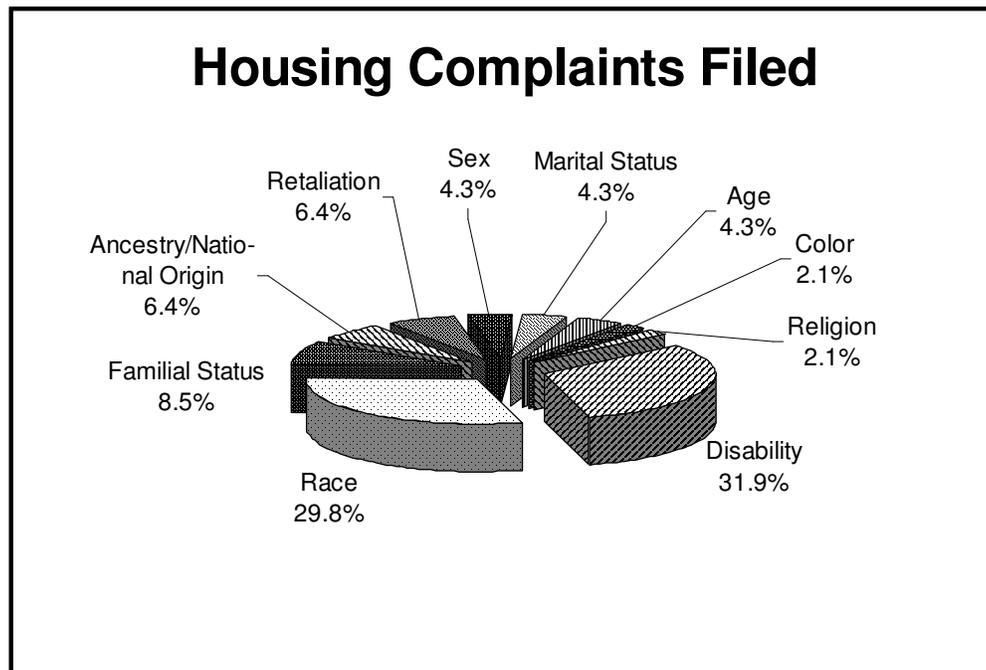
## Housing Cases

H.R.S. Chapter 515 is Hawai'i's fair housing law. It prohibits discriminatory housing practices based on race, sex, color, religion, marital status, familial status, ancestry, disability, age, or HIV infection. Examples of such unlawful practices are listed in H.R.S. § 515-3 and include actions such as refusing to rent, sell, or grant loans to an individual because of one or more of the above protected bases.

The HCRC has a work-share agreement with the U.S. Department of Housing & Urban Development (HUD). HUD refers most of the complaints it receives

regarding unlawful discrimination in real estate transactions in Hawai'i to the HCRC for investigation.

During FY 2003-2004, the HCRC accepted 47 cases of housing discrimination. There were 15 cases based on disability status (31.9%); followed by 14 cases based on race (29.8%); 3 cases based on ancestry/national origin (6.4%); 3 cases alleging retaliatory conduct (6.4%); 4 cases based on familial status (8.5%); 2 cases based on sex (4.3%); 2 cases based on age (4.3%); 2 cases based on marital status (4.3%); 1 case based on color (2.1%); and 1 case based on religion (2.1%). Housing case closures averaged 276 days for the 43 cases closed (or caused) during FY 2003-2004.

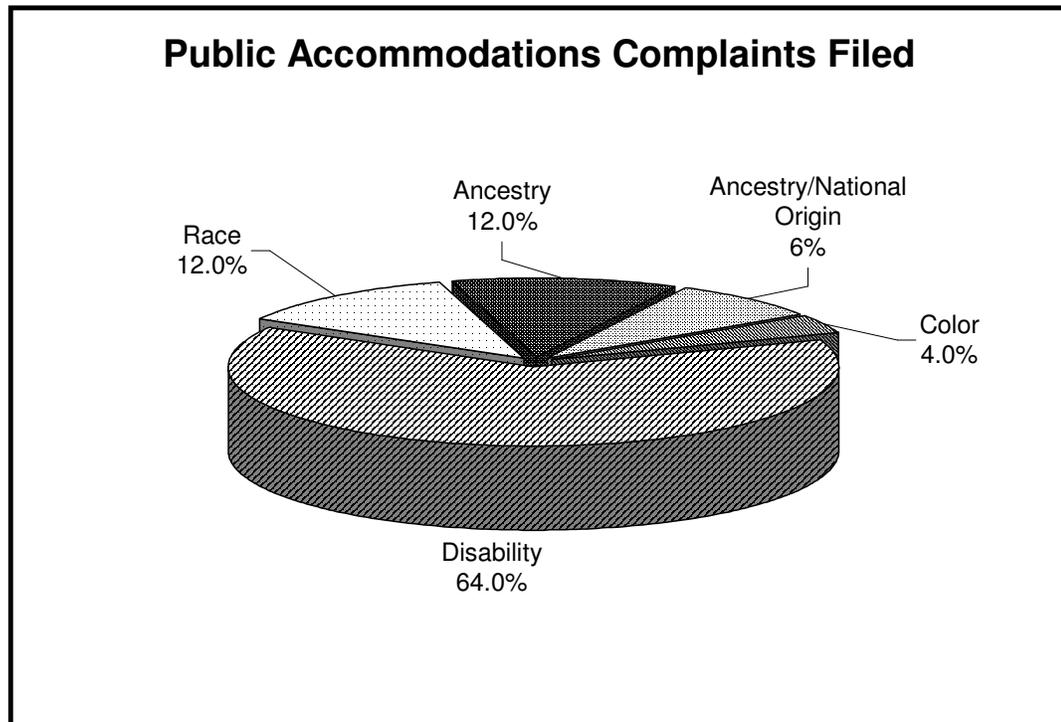


### Public Accommodations Cases

H.R.S. Chapter 489 prohibits unfair discriminatory practices that deny, or attempt to deny a person the full and equal enjoyment of the goods, services, facilities, privileges, advantages or accommodations of a place of public accommodation on the basis of race, sex, color, religion, ancestry, or disability. Public accommodations include retail stores, restaurants, theaters, sports arenas, public transportation, healthcare providers, hotels, and banks.

During the fiscal year, 25 new cases of public accommodations discrimination were accepted. There were 16 cases based on disability discrimination, accounting for 64% of all accommodations cases; 3 cases alleging race discrimination (12%); 3 cases based on ancestry (12%); 2 cases based on sex discrimination (8%); and 1 case based on color (4% each). There were no cases based on religion.

Public accommodations case closures averaged 369 days for the 39 cases closed (or caused) during FY 2003-2004.



### **Access To State & State-Funded Services Cases**

H.R.S § 368-1.5 prohibits state agencies, or any program or activity receiving state financial assistance, from excluding from participation, denying benefits or otherwise discriminating against persons with disabilities (the only protected class under this statute).

During the fiscal year, there was 1 case filed under § 368-1.5. No cases were closed during FY 2003-2004.

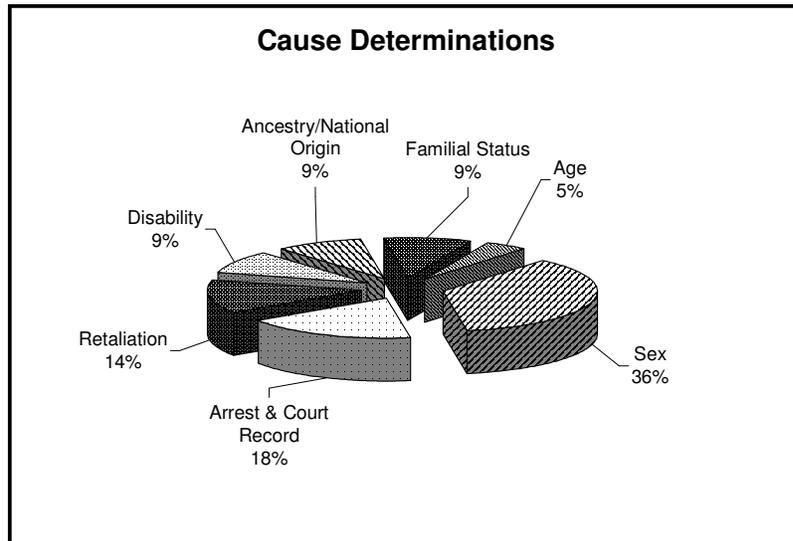
### **Cause Cases**

When the investigation results in a recommendation that there is reasonable cause to believe that discrimination has occurred, the case is assigned to an HCRC enforcement attorney for legal action. In FY 2003-2004, 22 recommendations for cause determinations were brought forward for legal action. Of these cases, 15 (68%) were employment cases, 4 (18%) were housing cases, and 3 (14%) were public accommodations cases.

Of the 22 investigations where the result was a cause recommendation, 8 involved discrimination on the basis of sex (36.4%), 4 involved discrimination due

to arrest and court record (18.2%), and 3 involved retaliation (13.6%). Additionally, 2 investigations involved discrimination due to disability (9.1%), 2 investigations involved ancestry/national origin (9.1%), and 2 investigations involved familial status (9.1%). 1 investigation involved age (4.5%).

During FY 2003-2004, enforcement attorneys closed 16 cases, and all but 14 of these cases (87.5%) were negotiated settlements.



## Case Settlements

The HCRC promotes and encourages settlement during all stages of the complaint process. Through pre-determination settlements, mediation, and conciliation, the HCRC obtains relief and resolves complaints while avoiding unnecessary litigation. These settlements provide closure for the parties and conserve HCRC investigation and litigation resources for complex or precedent setting cases.

During FY 2003-2004 the total monetary relief obtained through settlements totaled nearly \$500,000.00. In the 14 settlements obtained by HCRC attorneys in cases with a finding of reasonable cause, the monetary relief obtained for parties through conciliation, including cases resolved through mediation, totaled \$304,750.00. In the 52 cases settled prior to an investigative finding, monetary relief totaled \$184,835.27. This figure includes both pre-determination settlements obtained through HCRC investigators (\$11,718.00) and investigative settlements obtained through the HCRC Mediation program (\$173,117.27).

In addition to monetary relief, significant affirmative relief was also obtained. The HCRC seeks affirmative relief for four basic reasons: to enforce civil rights laws; stop discriminatory conduct; prevent future harm to complainants; and assist respondents in avoiding future violations. HCRC settlements and conciliation agreements routinely include various types of affirmative relief, including developing and implementing anti-discrimination policies, employee and supervisor training on anti-discrimination policies, posting policies, and publishing notices informing the public of HCRC's role in enforcing state anti-discrimination laws.

In some instances, non-monetary relief can be an important element of a settlement. For example, in FY 2003-2004, there were complainants who received letters of apology pursuant to the terms of a settlement. A simple apology sometimes goes a long way towards healing the rift between a complainant and respondent, and this form of relief is often not available as a court ordered remedy. Some cases are resolved when an employer, housing provider, or public accommodation corrects an unlawful discriminatory policy or practice after notice of the violation. During FY 2003-2004, a significant number of employers, housing providers, and public accommodations voluntarily agreed to correct unlawful employment applications, leave policies, or house rules.

The following descriptions are illustrative of the HCRC cases that were conciliated and the relief that was obtained during FY 2003-2004:

- A complainant alleged she was terminated because she was pregnant. The settlement included payment of \$25,000 to the Complainant, adoption of anti-discrimination employment policies in compliance with Chapter 378, and training for the employer's staff on such non-discrimination policies.
- In another case alleging employment discrimination based on pregnancy, settlement included payment of \$18,000, reinstatement with the employer,

adoption of anti-discrimination employment policies, and training for the employer's staff on such non-discrimination policies.

- Settlement of a case alleging employment discrimination based on disability resulted in the Complainant receiving \$10,000. The employer also adopted a written non-discrimination policy and training.
- In a case alleging termination and failure to accommodate pregnancy-related disability leave, the case was settled for \$35,000, the adoption of anti-discrimination employment policies, and a letter of reference.
- A case alleging unlawful pre-employment inquiries based on age resulted in a settlement of \$1,750 to the complainant.

### **HCRC Warning Letters**

In an effort to prevent future or recurring problems, HCRC provides respondents with "warning letters" advising them of unlawful or potentially unlawful practices that HCRC discovers during the course of its investigation of other claims against the respondent. In those instances in which the HCRC investigation does not result in a recommendation of reasonable cause on the claims filed but the HCRC investigator finds other unlawful practices, such as a discriminatory written policy or employment application, or conduct in the workplace that could rise to the level of unlawful harassment if repeated, HCRC will advise the respondent of the potential violations and give the respondent information about how it can correct the possible violation of the law. Warning letters have resulted in policy and application form changes, as well as discrimination prevention training for employees and managers.

## **Case Decisions**

### **Contested Case Hearings**

During FY 2003-2004, one case was docketed for hearing and two pending cases settled. One of these cases, Hoshijo on behalf of Sims and Quinata vs. SCI Corporation, was a complex case remanded from the Hawaii Supreme Court and involved extensive pre-hearing litigation before it settled.

### **Litigation and Court Rulings**

#### Executive Director Standing

In RGIS Inventory Specialist v. Hawaii Civil Rights Commission, 104 Hawai'i 58 (2004), the Hawaii Supreme Court held that the Executive Director of the Hawaii Civil Rights Commission did not have standing to petition the Commissioners for a declaratory ruling on whether there was jurisdiction to investigate. The Court took the unusual step of having oral arguments. In ruling that the Executive Director did not have standing to petition, the Court vacated the circuit court's ruling on the main issue of whether a transgender person was protected from sex discrimination because the person does not conform to gender stereotypes.

As a result, the case goes back to the Executive Director for investigation. Neither the HCRC's declaratory ruling that gender stereotyping was a viable theory to investigate claims made by transgender persons nor the circuit court's decision which ruled otherwise governs the investigation.

#### Statute of Limitations For Sex Discrimination Claims

In Asentista V. Young Men's Christian Association of Honolulu, Civil No. 02-1-1961-08 (1<sup>st</sup> Cir.), the HCRC intervened in a circuit court case involving the statute of limitations for filing sexual harassment claims in circuit court. The case began with a complaint that was initially filed with the HCRC. The investigation resulted in a finding of no cause, and the complainant was issued a notice of right to sue. The complainant filed a civil action within 90 days of the notice as provided by HRS § 368-12.

The defendants claimed that the civil action was filed too late based on HRS § 378-3(10), which allows victims of sexual harassment to file a direct action in court in two years, without having to file a complaint with the HCRC first. (HRS § 378-3(10) is the only exception to the requirement that a discrimination complaint be filed with the HCRC before a party can proceed to court. It was added because of a concern that victims of sexual harassment are often unable to meet the 180 day filing deadline because of the emotional trauma they may

face.) Based upon HRS § 378-3(10), defendants argued that plaintiff had to file within two years of the incident despite the express language in HRS § 368-12 which provides that a complaint must be filed within 90 days of the notice of right to sue.

The HCRC argued that HRS § 378-3(10), which was added to help victims of sexual harassment who did not file timely complaints with the HCRC, should not be interpreted to penalize those who file timely complaints with the HCRC. Under the right to sue provision, plaintiff had filed in a timely action because it was filed within 90 days of the right to sue.

The circuit court ruled that plaintiff had filed a timely action (within 90 days of the right to sue) because the investigation resulted in a no cause determination and the issuance of a right to sue. However, the court also ruled that if a complainant requests a notice of right to sue instead of waiting for a reasonable cause determination, the applicable statute of limitations would be two years after the date of the harm.

The HCRC disagrees with the part of the court's decision which changes the filing deadline for sexual harassment complainants who request a right to sue. The case was settled by the parties after the court's ruling so the issue was not appealed.

#### Discovery of Documents in HCRC File: Unemployment Hearing Tapes

In Fasone v. Horseshoe Chocolate Incorporated dba Rocky Mountain Chocolate Factory, Civil No. 03-1-0809-04 (1<sup>st</sup> Cir.), the plaintiff filed a discrimination action in circuit court. The plaintiff subpoenaed the HCRC to disclose cassette tape recordings of plaintiff's unemployment appeals hearing. The HCRC had obtained copies of the recordings from the appeals referee's office as part of its investigation.

Under HRS § 383-95(a), the unemployment hearing tapes are confidential and cannot be disclosed unless there is an appeal of the unemployment decision. The tapes were provided to the HCRC under HRS § 383-95(a)(3) which allows the unemployment referee's office to disclose information to "any ... state ... agency charged with the administration of a fair employment practice or anti-discrimination law[.]" The HCRC claimed a Rule 501, statutory privilege under HRS § 92F-19(b), which provides that the HCRC is subject to the same limitations on disclosure as the unemployment appeals referee's office.

The court ruled that the HCRC was justified in refusing to comply with the subpoena because it had a statutory privilege under Rule 501 and HRS § 92F-19(b) to keep the tapes confidential. The court also ruled that the tapes were not

were not created as a result of or from a complaint filed with the Hawai'i Civil Rights Commission so they were not subject to disclosure under HRS § 368-4.

#### Discovery of Documents in HCRC File: Assertion of EEOC Privilege

In Fiatoa v. Brigham Young University-Hawaii, Civil No. 03-00258 (U.S. Dist. Ct.), plaintiff filed a civil action based upon the Family and Medical Leave Act. Earlier, Plaintiff had filed a complaint for employment discrimination with the HCRC but the civil action did not contain an employment discrimination claim.

The defendant subpoenaed the HCRC files. (Because this case was filed in federal district court, the state statutory privilege in HRS § 368-4 could not be asserted.) The HCRC objected to the subpoena on behalf of the Equal Employment Opportunity Commission (EEOC) claiming that the files were confidential under federal law. Because the workshare agreement with the EEOC requires that the HCRC comply with federal law in maintaining the confidentiality of the files, the HCRC objected. Under the workshare agreement, the HCRC files are considered to be EEOC files, if the complaint is dual-filed with both agencies. Under federal law, EEOC files are confidential and can only be disclosed if there is a civil action based upon the discrimination complaint filed with the HCRC or EEOC. Because the civil action did not raise any discrimination claims, the EEOC would not be authorized to release the files.

The federal district court did not rule on whether the HCRC could raise EEOC's privilege because it dismissed the civil action for reasons unrelated to the subpoena.

#### HCRC Investigation When There Are Related Civil Service Claims

In Hawai'i Civil Rights Commission v. Hawai'i Labor Relations Board, Civil No. 03-1-1859-09 (1<sup>st</sup> Cir.), the HCRC intervened in a petition for declaratory relief filed by the Hawaii County Civil Service Commission (CSC). The CSC sought a declaration that it could defer a civil service claim for non-selection to the HCRC because the claimant had also filed a discrimination claim for non-selection with the HCRC. The declaration was based upon HRS § 76-14(c)(1), which requires deferral of civil service claims when "the action complained of constitutes a prohibited practice subject to the jurisdiction of another appellate body or administrative agency."

The Hawaii Labor Relations Board declared that the CSC could defer the entire case and did not have to investigate any civil service claim for non-selection because the person had also filed a discrimination claim for non-selection with the HCRC. Even though the civil service claim also charged that the non-hiring was based upon two purely-civil service issues, the Board

declared that the HCRC could investigate and decide the two purely-civil service issues at the same time it decided the discrimination claim.

The HCRC appealed to the circuit court and argued that the Board's interpretation of the deferral statute, HRS § 76-14(c)(1), was wrong because the two purely-civil service claims were not prohibited practices under HCRC's jurisdiction. The declaration would result in the loss of the two civil service claims because the HCRC has no legal authority to decide civil service claims or grant any relief for civil service violations and if the HCRC concluded there was no discrimination but the civil service laws were violated, it could not grant relief under the civil service law. Moreover, the Board's declaration was contrary to HRS § 76-47(a), which gives the CSC the exclusive authority to decide civil service issues. The HCRC contended that the proper interpretation of HRS § 76-14(c)(1) should be a separation of the claims so that the two purely-civil service claims would be decided by the CSC and the discrimination claim decided by the HCRC, so that the person would not lose any claims.

The circuit court ruled that HRS § 76-14(c)(1) meant that the HCRC should investigate the discrimination claim first and if there are any civil service issues remaining, the CSC would still have jurisdiction to decide them. No appeal was taken by either party. The HCRC will investigate the discrimination claim and leave it up to the CSC to decide any remaining civil service issues.

## **Legislation**

There were no laws relating to civil rights or discrimination enacted in the last session.

## **Appendix**

### **Overview**

The Hawaii Civil Rights Commission (HCRC) was established under Act 219, L. 1988, and Acts 386 and 387, L. 1989.

The HCRC's enabling statute, H.R.S. Chapter 368, declares that discrimination because of race, color, religion, age, sex, sexual orientation, national origin, ancestry, or disability in employment, housing, public accommodations, or access to services receiving state financial assistance is against public policy. Certain bases are not protected under all laws under HCRC jurisdiction.

The HCRC exercises jurisdiction over Hawaii's laws prohibiting discrimination in employment (H.R.S. Chapter 378, Part I), housing (H.R.S. Chapter 515), public accommodations (H.R.S. Chapter 489), and access to state and state-funded services (H.R.S. § 368-1.5). Under its statutory mandate, the HCRC receives, investigates, conciliates, litigates, and adjudicates complaints of discrimination, providing a uniform procedure for the enforcement of the state's discrimination laws.

The HCRC has five volunteer Commissioners. They are appointed by the Governor, with the consent of the Senate, based on their knowledge and experience in civil rights matters and commitment to preserve the civil rights of all individuals.

The HCRC is attached to the Department of Labor & Industrial Relations (DLIR) for administrative purposes. The HCRC has a staff of twenty-nine (29) persons who are divided into separate enforcement and adjudication sections.

### **Administrative Procedure**

Before the HCRC accepts a complaint of discrimination, a complaining person must allege that:

- 1) She or he has been subjected to unlawful discrimination<sup>1</sup> because of a "protected basis,"<sup>2</sup> and,
- 2) The unlawful discrimination occurred within the previous 180 days.<sup>3</sup>

After a complaint is filed with HCRC, in appropriate cases the parties are offered an opportunity to voluntarily mediate the complaint through the HCRC Mediation Program. If the parties agree to mediate, the HCRC mediation coordinator refers the parties to a community mediation center, which schedules and holds mediation sessions. Parties may alternatively choose to hire a private mediator.

In cases not referred to mediation, or those in which mediation is unsuccessful, an HCRC investigator conducts an objective, fact-finding investigation. HCRC investigators favor neither party, and gather evidence to allow the Executive Director to make a determination in each case. As appropriate, the HCRC investigator collects, reviews, and analyzes documents, and contacts and interviews witnesses. Some witnesses questioned may be identified by the complainant or by the respondent, and some are independent witnesses, including experts, who are identified by the investigator, by other witnesses, or are discovered during the investigation. In many cases, the investigator also attempts to settle the complaint prior to an investigative determination (pre-determination settlement).

After an HCRC investigation is completed, H.R.S. 368-13(b)-(c) requires the Executive Director to determine whether reasonable cause exists to believe that discrimination has occurred. Where no reasonable cause is found, the Executive Director dismisses the complaint and issues a right to sue letter to the complainant. Where a determination of reasonable cause is recommended, the complaint is assigned to an HCRC enforcement attorney for legal review and final recommendation to the Executive Director.

Upon the issuance of a finding of reasonable cause to believe that unlawful discrimination has occurred, the HCRC enforcement attorney attempts to conciliate or settle the complaint.<sup>4</sup> If conciliation is unsuccessful, the complaint is docketed for a contested case hearing. An HCRC enforcement attorney presents the case in support of the complainant before an impartial hearings examiner. The respondent (represented by themselves or by counsel or representative of their choice) is also given the opportunity to present its case at the hearing. Generally, a complainant may intervene in the contested case process as a party and also be represented by counsel or other representative of their choice.

After the completion of the contested case hearing, the hearings examiner issues a proposed decision based on the evidence. The five-member Commission Board then reviews the proposed decision and the hearing record. The parties may file written exceptions and support statements and present oral arguments to the Board. The Commission Board then accepts, rejects, or modifies the proposed decision, issues a final decision and order, and awards remedies, if appropriate. This decision is legally binding. If any party disagrees with the decision, she/he has 30 days to file an appeal to the State Circuit Court. Furthermore, a Respondent who appeals a decision of the Commission Board is entitled to a jury trial on any claims that form the basis for an award of common law damages.<sup>5</sup>

The HCRC enforcement and administrative process is more cost effective than litigation in court. It provides for the investigation of complaints and access to justice for those who lack the resources to pursue their claims in court. This is particularly important in employment discrimination cases, where employees have often lost their source of income through termination and have little or no control over the evidence needed to prove discrimination.

The HCRC enforcement and adjudication process also funnels cases away from the courts, saving judicial resources and associated costs. Complainants

who file suit in court must first exhaust administrative remedies by filing a complaint with the HCRC. The primary reason for this requirement is to prevent the courts from being overburdened with non-jurisdictional or non-meritorious complaints, or with complaints that can be closed or settled in HCRC's administrative process. In fact, the great majority of complaints filed with HCRC are resolved or disposed of without resort to the courts.<sup>6</sup>

Although only a small number of cases are brought to administrative hearing and result in final Commission decisions, these cases are important because they create a body of legal precedent. Case law precedents – in Hawai'i and across the United States -- provide the basis for anti-discrimination principles, such as the doctrine of sexual harassment. Case law also establishes standards that define the rights and protections under by civil rights laws, and give guidance to employers, landlords, and businesses on how to prevent and eliminate discrimination.

---

1 "Unlawful discrimination" may occur in any of the following ways:

- a. Disparate Treatment – this is the usual form of discrimination; it occurs when individuals are treated in an unequal manner because of a "protected basis." Examples of disparate (unequal) treatment include: firing an employee because of her race, her age, or because she is pregnant; refusing to serve a person because of his race or his disability; refusing to rent to a person because of her race; or refusing to rent to a family because it has young children.
- b. Reasonable Accommodation – this is the second most common way that discrimination appears; it occurs when an individual is denied a "reasonable accommodation" designed to allow an individual to have equal access or equal benefits. Examples of failure to accommodate include: refusing to allow a seeing impaired customer into a taxicab because he is accompanied by a seeing-eye dog; refusing to allow a pregnant cashier to sit on a stool so that she can work while pregnant; or refusing to make exceptions to a condominium association's "no pets" house rule to allow a disabled resident to keep a service animal.
- c. Disparate Impact -- the least common way that discrimination appears; however, when discrimination occurs in this form, it may impact the greatest number of people. Disparate impact occurs when a policy, practice, or test that has a "disparate impact" on persons with a particular "protected basis." Examples of disparate impact include: a pre-employment test that includes a number of questions that are not job related but have the effect of disqualifying a large number women, or men, or any other protected basis.

<sup>2</sup> "Protected basis" is the criteria that it is unlawful for a respondent to discriminate upon. Protected bases vary depending on the statute involved:

- a. State Funded Services (Chapter 368, H.R.S.) The only protected basis is disability.
- b. Employment (Chapter 378, Part I, H.R.S.) The protected bases that an employer, employment agency, or labor organization may not discriminate on are: race, sex, sexual orientation, age, religion, color, ancestry, disability, marital status, or arrest and court record.
- c. Public Accommodations (Chapter 489, H.R.S.) The protected bases that a public accommodation may not discriminate on are: race, sex, color, religion, ancestry, or disability.
- d. Housing (Chapter 515, H.R.S.) The protected bases that an owner, a real estate broker or any person engaging in a real estate transaction, may not discriminate on are: race, sex, color, religion, marital status, familial status, ancestry, disability, age or HIV (human immunodeficiency virus) infection.

<sup>3</sup> Complaints filed with HCRC usually involve a discrete act – such as termination, eviction, demotion, etc. – or involve acts that are ongoing and constitute a continuing violation. An example of a

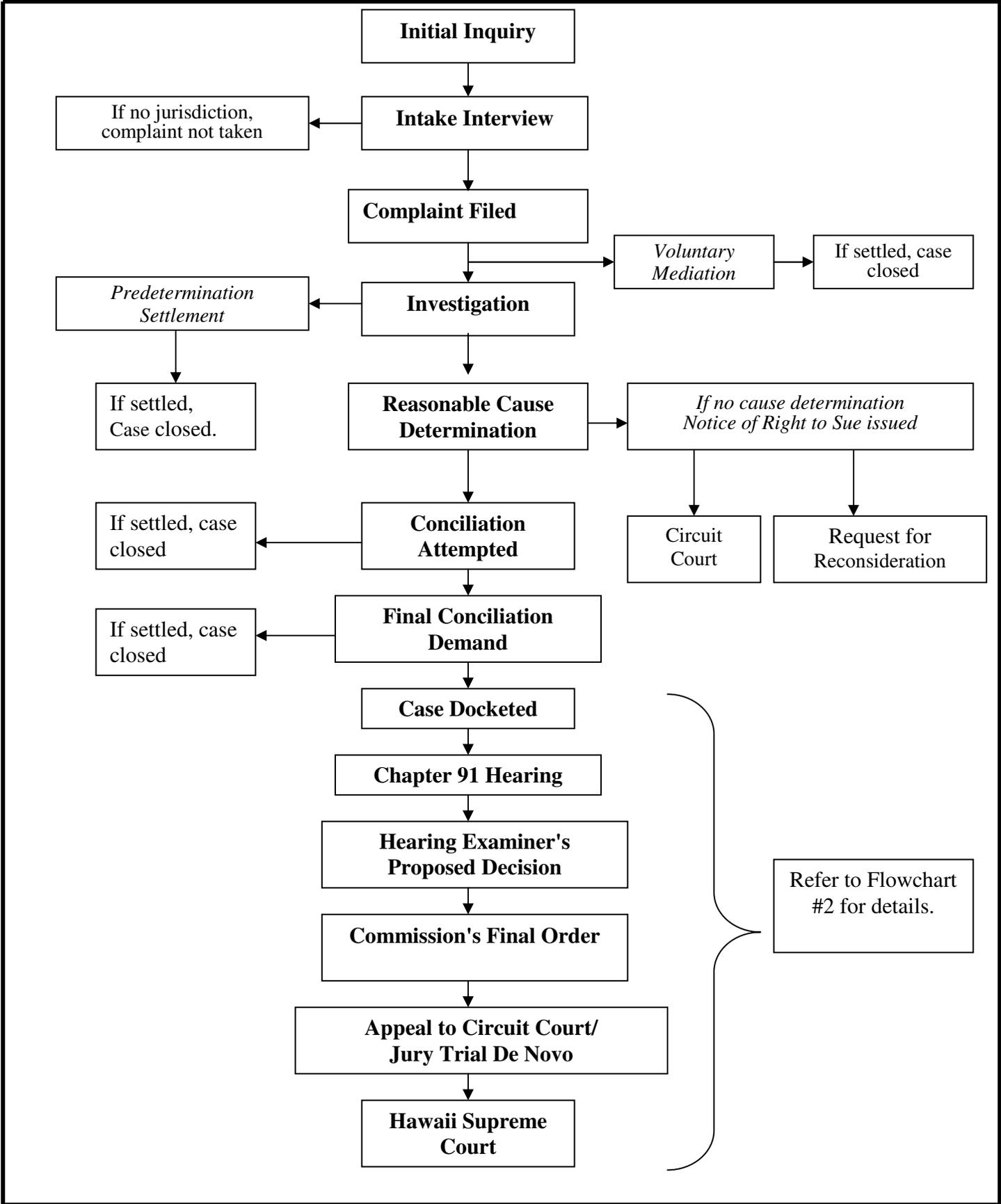
“continuing violation” is sexual harassment that began more than 180 days before the complaint is filed, but continued or ended less than 179 days before the complaint is filed. When discrimination involves a discrete act, such as termination, the HCRC can only accept a complaint within 180 days of that complained action.

<sup>4</sup> During FY 2003-2004, of all complaints closed (442), 28.2% (125) were closed on the basis of the complainant electing court action or other administrative closure. The remaining cases (317) were closed on the basis of a completed investigation or a pre-determination settlement: in 65.84% (291) the Executive Director found no cause and dismissed the complaint; in 3.62% (16) the case was resolved through settlement or litigation by HCRC enforcement attorney after the issuance of a notice of cause; and 11.76% (52) were settled prior to a cause determination.

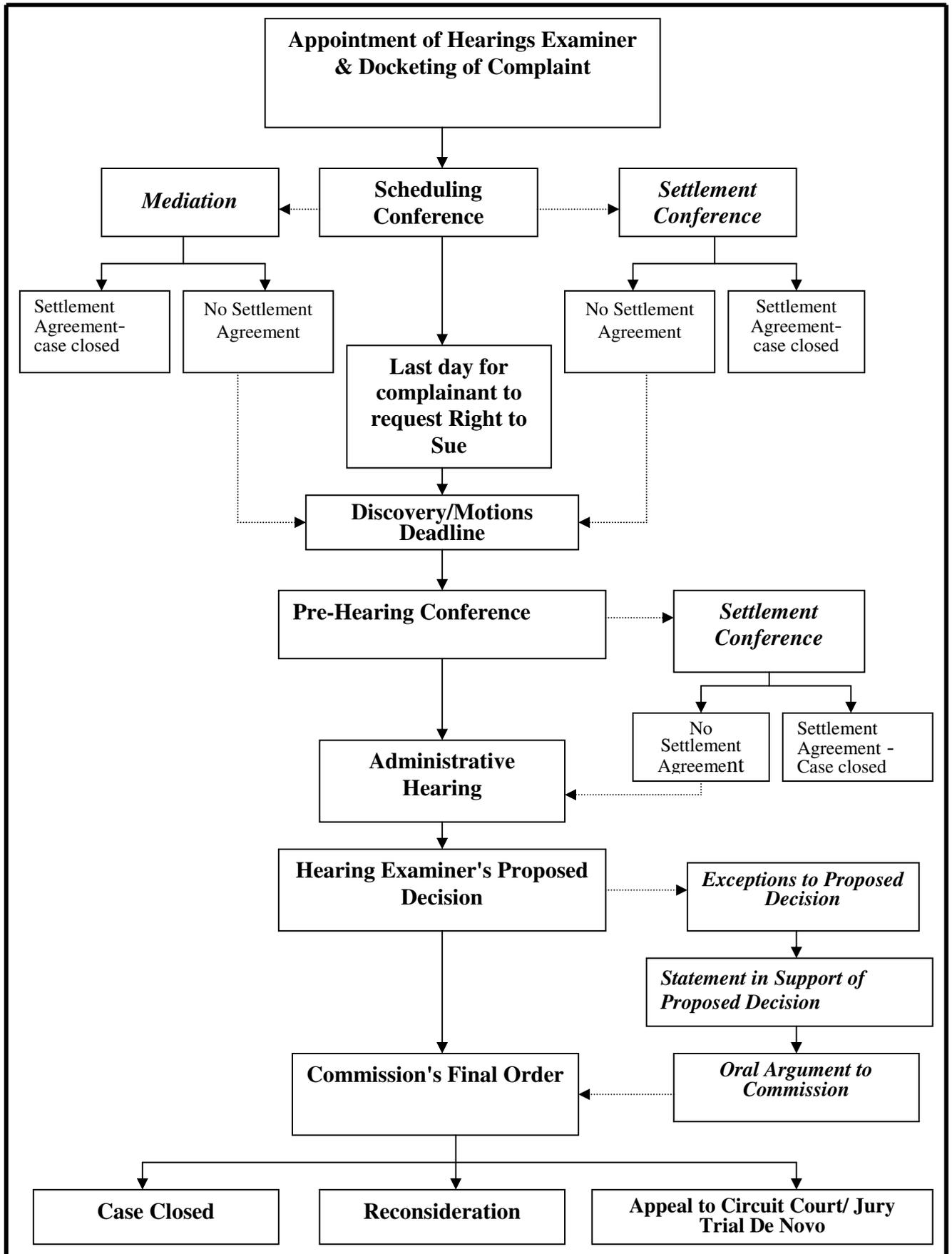
<sup>5</sup> The HCRC administrative procedure and circuit court appeal is illustrated in Flowchart # 1. In *SC/ Management Corporation, et. al. v. Darryllyne Sims, et. al.*, No. 24485, June 18, 2003, the Hawai`i Supreme Court held that “a respondent who appeals a final order of the HCRC, pursuant to HRS § 368-16, is entitled to a jury trial on any claims that form the basis for an award of common law damages by the HCRC.”

<sup>6</sup> HCRC case dispositions are illustrated in Flowchart # 2.

# **HCRC Procedural Flowchart #1**



## ***HCRC Contested Case Flowchart #2***



## **HCRC Commissioners**

### **Harry Yee**

**Chair (terms 1997-2001, 2001-2003)**

During FY 2002-2003, Mr. Yee was an attorney in private practice. He served as President of the Federal Bar Association, Hawaii Chapter and on the board of the National Asian Pacific American Bar Association. Mr. Yee served as an Assistant Attorney General with the Civil Rights Division of the Massachusetts Office of the Attorney General and managing attorney for Greater Boston Legal Services, Chinatown Office. He was a member of the Greater Boston Civil Rights Coalition and the George Lewis Ruffin Society, which promotes greater understanding between minority communities and the criminal justice system. Mr. Yee was appointed Chair of the Commission in December 1998. He was reappointed for another four-year term in 2001. Mr. Yee resigned as Chair and Commissioner, effective September 5, 2003, and is now an Assistant United States Attorney in Honolulu.

### **Allicyn Hikida Tasaka**

**Commissioner (terms 1996-2000, 2000-2004)**

During FY 2003-2004 Ms. Tasaka was Executive Director of the Hawaii State Commission on the Status of Women. She was the Communications Director for former Lieutenant Governor Mazie Hirono, chair of the Hawaii State Commission on the status of Women and the first woman president of the Honolulu Chapter of the Japanese American Citizens League (JACL). She also serves as director on the boards of the Hawaii Women's Political Caucus, Winners at Work, Awareness Foundation and as a commission of the Department of Education's General Equity in Athletics Advisory Commission.

### **Richard Turbin**

**Commissioner (term 2002-2004)**

Mr. Turbin was born in New York City and graduated from Cornell University, Magna Cum Laude, and Harvard Law School where he served as editor and author of the Harvard Civil Rights Law Review. He has been a litigation lawyer in Hawaii for 31 years. He is the chair of the Kahala Neighborhood Board, the president of the Consumer Lawyers of Hawaii, and a board member of Mothers Against Drunk Driving (MADD) and the Judicial History Center. He has also served as the Hawaii State Bar Association chair of the legal malpractice insurance section and the 1999-2000, chair of the Tort and Insurance Practice Section (TIPS) of the American Bar Association (ABA), which is comprised of 30,000 members, the largest such organization in the world. Mr. Turbin's term lapsed on June 30, 2004.

**Coral Wong Pietsch**  
**Chair (term 2003-2007)**

Coral Wong Pietsch was appointed a Commissioner by the governor and confirmed by the Senate on March 24, 2004. She is the Senior Civilian Attorney for the U.S. Army Pacific Command and is a member of the U.S. Army Reserves. She oversees the Personnel and Labor Law practice at Headquarters, U.S. Army Pacific Command, as well as the Ethics and the Environmental Law programs. She is also responsible for providing advice and guidance on international law issues. She is the first female General in the 226-year history of the US Army Judge Advocate General Corps, and first Asian American female to reach the rank of Brigadier General in the Army. From 1986 to 1991, she served as Labor Counselor for the U.S. Army Support Command Hawai`i, and was responsible for providing training to managers and supervisors on Title VII, the Rehabilitation Act, and sexual harassment.

**Lisa A. Wong**  
**Commissioner (term 2003-2007)**

Ms. Wong was appointed Commissioner by the governor and confirmed by the Senate on March 24, 2004. Ms. Wong received her Bachelor of Business Administration, Personnel and Industrial Relations from the University of Hawai`i and founded the University of Hawai`i Society of Human Resources, student chapter. Ms. Wong has been a human resources professional for 34 years, responsible for employee relations, equal employment opportunity programs, affirmative action programs, management and supervisory training, and diversity and compliance programs. Ms. Wong is currently the Human Resources Manager for the Hawai`i Convention Center. She previously served as human resources manager for the Hawaii division of Affiliated Computer Services, Inc. Currently, Ms. Wong is chair of the Society of Human Resources Management annual state conference, which provides training to human resources professionals, executives, managers, supervisors and entrepreneurs in areas such as discrimination, sexual harassment, diversity, and dispute resolution. She has been active in numerous organizations and volunteer projects, including the Associated Chinese University Women, Honolulu Chinese Jaycees, Aloha United Way, Junior Achievement, Hawaii Medical Fellowship Foundation, Hawaii Bone Marrow Registry, and the Chinese Chamber of Commerce.

**Roger Daniel Rizzo**  
**Commissioner (term 2003-2005)**

Mr. Rizzo was appointed Commissioner and confirmed by the Senate on March 24, 2004. His degrees include: a bachelor's degree in International Relations, a master's degree in Business Administration specializing in Finance, and a

doctorate in jurisprudence. Mr. Rizzo was a civil trial attorney and successfully tried over 25 complex cases to verdict. Recently Mr. Rizzo has done volunteer work with the Maui Health Department Director and authored a bill to regulate tobacco. He has also done volunteer work for the Maui Health Department, the Community Clinic of Maui, the Teach Me To Live Organization, the Self Help Housing Corporation of Hawaii, the Lahaina Salvation Army, the Maria Lanakila Catholic Church, the Lahaina Holy Innocents Church, the Lahaina Church of Jesus Christ of Latter Day Saints, and S.C.O.R.E.

## **HCRC Staff**

The HCRC staff consists of 30 individuals in the following positions:

- Executive Director
- Enforcement Staff:
  - Deputy Executive Director
  - Enforcement Attorneys (4)
  - Administrative Services Asst.
  - Investigator-Supervisors V-VI (3)
  - Investigator III-IV (11)
  - Secretary III
  - Legal Stenographer I
  - Clerk Typists (4)
- Adjudication Staff:
  - Chief Counsel
  - Hearings Examiner
  - Secretary II

**Annual Evaluation of the  
Hawaii Unemployment Compensation Fund**

State of Hawaii  
Department of Labor & Industrial Relations

December 2004

STATE OF HAWAII  
Linda Lingle, Governor

DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS  
Nelson B. Befitel, Director  
Colleen Y. LaClair, Deputy Director

RESEARCH AND STATISTICS OFFICE  
Naomi Harada, Chief

Operations Management Information Staff  
Dayle Kobashigawa, Research Statistician  
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In cooperation with:  
UNEMPLOYMENT INSURANCE DIVISION  
Linda Y. Uesato, Administrator

December 2004

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## EXECUTIVE SUMMARY

### Highlights

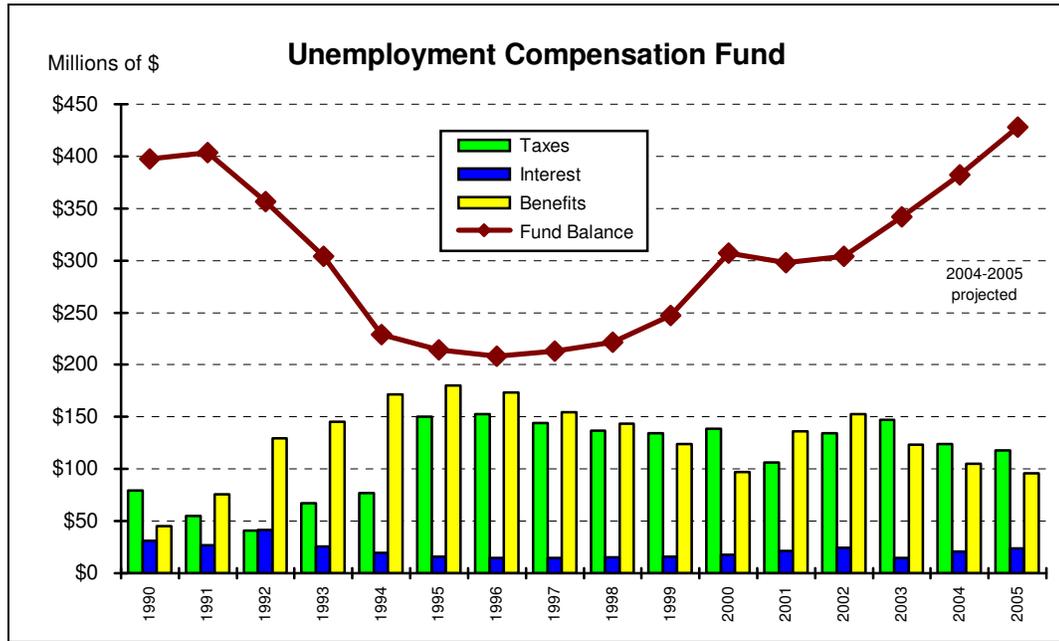
	2003	2004	2005
<b>Unemployment Compensation Fund</b>			
Contributions	\$147 million	\$124 million*	\$118 million*
Interest	\$14 million	\$21 million*	\$24 million*
Benefits – Regular	\$124 million	\$105 million*	\$96 million*
Fund Balance (end of year)	\$342 million	\$382 million*	\$428 million*
<b>Unemployment Rates</b>			
Hawaii Insured Unemployment Rate	2.0%	1.5%*	1.4%*
Hawaii Total Unemployment Rate	4.3%	3.4%*	3.4%*
U.S. Total Unemployment Rate	6.0%	5.5%*	5.4%*
<b>Taxable Wage Base</b>	\$30,200	\$31,000	\$32,300
<b>Tax Schedule</b>	Schedule D	Schedule C	Schedule C
<b>Tax Rates</b>			
Minimum	0.2%	0.0%	0.0%
Maximum	5.4%	5.4%	5.4%
Average			
% of Taxable Wages	1.7%	1.2%*	1.2%*
% of Total Wages	1.2%	0.8%*	0.8%*
<b>Weekly Benefit Amount</b>			
Minimum	\$5	\$5	\$5
Maximum	\$407	\$417	\$436
Average	\$298	\$310*	
<b>Average Benefit Duration</b>	15.7 weeks	15.9 weeks*	

\* estimated

### Status of the Fund

The Hawaii Unemployment Compensation Fund *balance was \$389 million at the end of November 2004*. During the first eleven months of 2004, \$124 million in taxes and \$21 million in interest were added to the Fund. At the same time, \$98 million in benefits were paid out from the Fund. As of November, the fund balance is at 106% of the adequate level. This amount would finance about one and a half years of unemployment at the worst level experienced during the last ten years.

The fund balance at the end of 2004 is projected to be \$382 million. Assuming the year 2005 insured unemployment rate averages about 1.4%, or about 7,600 claims per week, the fund balance would be \$428 million at the end of 2005. The November 2005 balance would be about 115% of the adequate reserve amount and Schedule C would continue to be in effect for 2006.

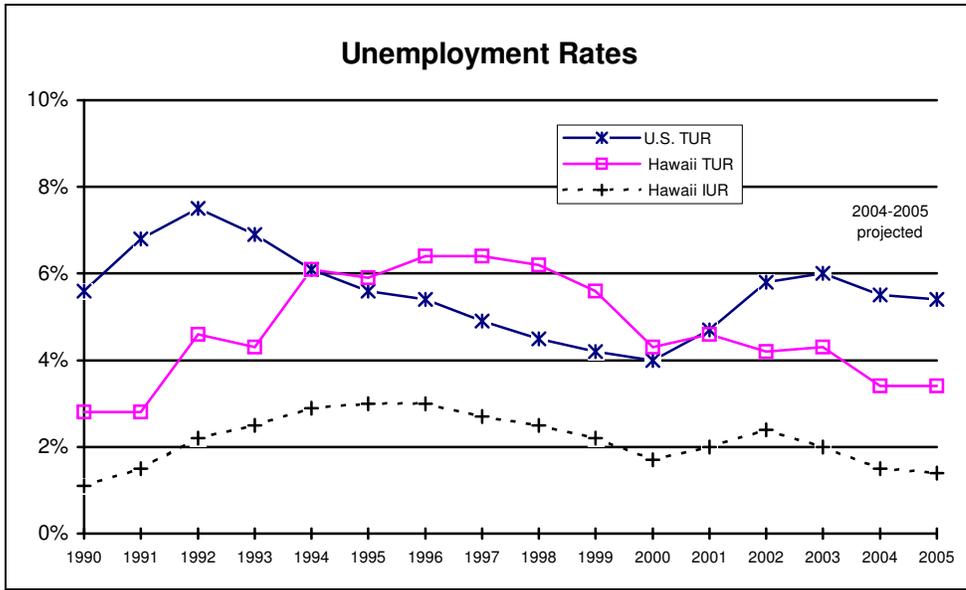


## Economic Outlook

The unadjusted U.S. total unemployment rate (TUR) averaged 5.7% for the first nine months of 2004, a decrease of 0.3 percentage point from an annual jobless rate of 6.0% in 2003. Hawaii's total unemployment rate (TUR) averaged 3.4% for the first nine months of 2004, down 0.9 percentage point from 4.3% in 2003. The total nonagricultural wage and salary job count averaged 577,150 for the January through September 2004 period. This is a 2.3% increase, or 12,800 more than the same period in 2003.

The insured unemployment rate (IUR), a measure of the unemployed covered by Hawaii's unemployment compensation program, is used to project outgo from the Unemployment Compensation Fund. The IUR averaged 2.0% in 2003. It has dropped to 1.3% as of November 2004.

*Projections in this report assume that national and Hawaii labor force numbers will continue to reflect favorable conditions. Hawaii's total unemployment rate (TUR) is projected to average 3.4% in 2004 and 2005. Trust fund estimates are based on an insured unemployment rate (IUR) of 1.5% in 2004 and 1.4% in 2005.*



## 2005 Tax Schedule and Taxable Wage Base

*Tax schedule C will be in effect for the year 2005. Tax rates will range from 0.0% to 5.4%. The estimated average tax rate will be 1.2%.*

*The taxable wage base (maximum annual wages taxable per employee) will increase by \$1,300 to \$32,300 in 2005, from \$31,000 in 2004.*



## BACKGROUND INFORMATION

### Purpose of Report

This report is produced to meet the requirements of section 383–126.5, Hawaii Revised Statutes, which calls for an *annual evaluation of the adequacy of the Hawaii Unemployment Compensation Fund balance*, taking into account conditions in the State and national economic trends. The report is due to the Legislature no later than 20 days prior to the convening of the regular session.

### Fund Definition and Requirements

**Establishment of Fund in Hawaii state law.** The Hawaii Employment Security Law (Hawaii Revised Statutes, chapter 383) establishes the Unemployment Compensation Fund under the administration of the Department of Labor and Industrial Relations.

Unemployment insurance contributions (taxes) are collected from employers and deposited into this fund. Interest earned on the fund balance is also credited to the fund. The fund can be used *only* to pay unemployment insurance benefits or refunds of overpaid contributions.

**Federal requirements.** The unemployment insurance program is governed by both state and federal laws. The Federal Unemployment Tax Act (FUTA), which is part of the U.S. Internal Revenue Code, provides for a federal payroll tax—currently 6.2% of the first \$7,000 in wages per year per employee. Employers receive a tax credit of 5.4% against the Federal tax (resulting in a net tax rate of 0.8%) if their state's law meets all the requirements in the federal laws. The federal tax pays for state and federal administration costs, the federal share of extended benefits, and a loan fund for states that deplete their unemployment funds.

The Social Security Act also contains many requirements relating to the unemployment insurance program.

Three important trust fund related federal requirements are as follows.

- All state unemployment compensation funds must be maintained in the U.S. Treasury as part of the federal Unemployment Trust Fund. Each state has an account in the Trust Fund and interest is paid quarterly to the account by the federal government.
- The Trust Fund can be used essentially only for the payment of unemployment benefits.
- Employers receive the full 5.4% federal tax credit only if the state's system for determining individual employer tax rates meets federal standards. For example, the state's maximum tax rate must be at least 5.4% and an employer's tax rate may be reduced from the maximum, but the reduction must be based on that employer's experience with unemployment (experience rating).

Nonconformity to federal standards can result in:

- denial of all credit against the federal tax (employer's federal tax would be the full 6.2% on the \$7,000 wage base);
- denial of additional credit (employer's federal tax would be the difference of the full federal tax minus their state taxes paid); and/or
- denial of administration grants to run the state program.

To insure that Hawaii employers continue to receive full federal unemployment tax credits, and funding for the state program is not lost, federal standards must be considered in developing laws affecting Hawaii's Unemployment Compensation Fund.

# STATUS OF THE UNEMPLOYMENT COMPENSATION FUND

## Status of the Fund

(Historical data from 1970: Appendix B, page A-5)

The fund balance was \$389 million at the end of November 2004 compared to \$342 million at the end of 2003. During the first eleven months of 2004, \$124 million in taxes and \$21 million in interest were added to the Fund. At the same time, \$98 million in benefits were paid out from the Fund.

*Projections through 2005: For this report the insured unemployment rate is projected to average 1.5% in 2004 and 1.4% in 2005. This would result in a benefit outgo of about \$96 million in 2005. Taxes and interest are projected at about \$142 million in 2005. On the basis of this forecasted level of unemployment, the fund balance would be at about \$428 million by the end of 2005. At this level, tax schedule C would continue to be in effect for 2006.*

### HAWAII UNEMPLOYMENT COMPENSATION FUND

(in millions of \$)

Year	Taxes*	Interest	Benefits	Fund Balance
2002	\$134.6	\$24.2	\$152.7	\$304.3
2003	\$147.0	\$14.4	\$123.6	\$342.0
2004				
Jan	\$7.8	\$5.2	\$10.2	\$344.8
Feb	\$19.5	\$0.0	\$9.2	\$355.1
Mar	\$0.1	\$0.0	\$11.9	\$343.3
Apr	\$12.9	\$5.3	\$9.7	\$351.9
May	\$24.3	\$0.0	\$8.6	\$367.7
Jun	-\$0.4	\$0.0	\$9.7	\$357.6
Jul	\$10.0	\$5.1	\$8.0	\$364.6
Aug	\$23.5	\$0.0	\$8.8	\$379.3
Sep	\$0.2	\$5.1	\$7.3	\$377.3
Oct	\$6.5	\$0.0	\$6.9	\$377.0
Nov	\$20.1	\$0.0	\$7.7	\$389.3
<i>Projected</i>				
2004	\$124	\$21	\$105	\$382
2005	\$118	\$24	\$96	\$428

\*Includes special distribution of \$30.8 million in federal Reed Act funds in 2002.

## Fund Solvency

(Historical data from 1970: Appendix B, page A-6)

The Hawaii Employment Security Law defines the factors used to determine the adequacy of the Fund and how the tax rate schedule for the coming year is computed based on that adequacy level. Appendix A outlines the method for determining the tax schedule and how each employer's individual tax rate is computed based on the employer's experience as well as the schedule in effect.

On page A-6, Appendix B, the table entitled *Ratio of Current to Adequate Reserve Fund* shows the data used in tax schedule computations since 1970. The *adequate reserve fund* is basically the amount of benefits that would be paid out during one and a half years of unemployment at the highest level experienced during the most recent ten years. For the 2005 tax schedule computation, the adequate amount is \$369,005,054. The current reserve fund (actual fund assets as of November 30, 2004) is \$389,302,103. The current reserve is 106% of the adequate reserve. Based on this computation, Schedule C will be in effect for 2005.

## **Tax Rates**

*(Historical data from 1970: Appendix B, page A-7)*

One of eight tax schedules, A through H, is in effect for a calendar year as explained in Appendix A. Schedule A has the lowest tax rates, while schedule H has the highest. The average tax rate attainable from a particular tax schedule depends on the distribution of employers by reserve ratio groups. Employers tend to move to higher reserve ratio groups during periods when contributions exceed benefits. Thus more employers move into the lower tax rate groups and the average tax rate for a schedule decreases. Minimum, maximum, and average tax rates are shown on page A-7, Appendix B. Taxes are estimated to average about 1.2% of taxable wages during calendar years 2004 and 2005 with Schedule C in effect.

## **Taxable Wage Base**

*(Historical data from 1970: Appendix B, page A-8)*

There is a maximum limit on the amount of taxable annual wages per employee for unemployment insurance tax purposes. The law sets this amount, the *taxable wage base*, at 100% of the statewide average annual wage. The wage base was \$31,000 in 2004. For 2005 it will be \$32,300. Setting the wage base at the average annual wage results in approximately 70% of all wages being subject to unemployment insurance taxes. The *Total and Taxable Wages* table on page A-8, Appendix B shows the taxable wage bases and the proportions of wages taxed since 1970.

The current tax schedule system was designed to work with the currently defined taxable wage base. If the wage base is lowered, the tax schedules will produce lower levels of income than they were designed to produce.

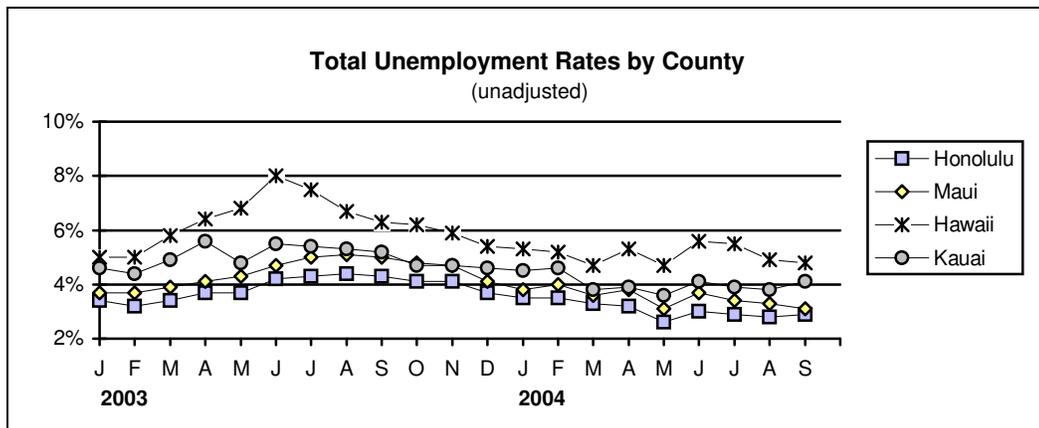
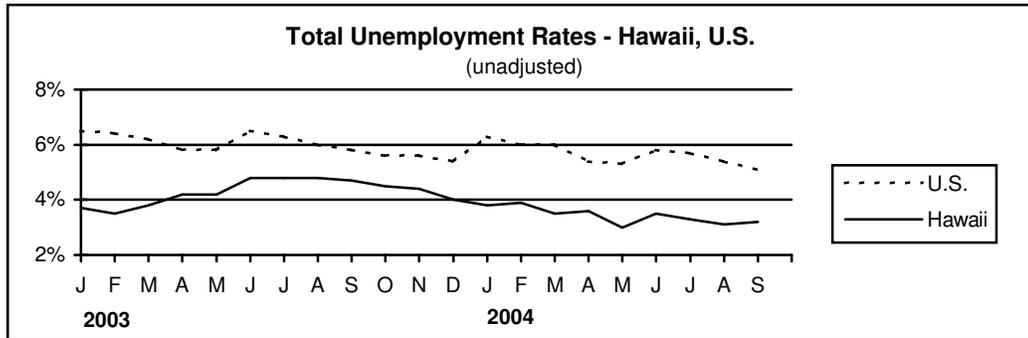
# ECONOMIC OUTLOOK

## General Conditions and Outlook

Hawaii's economy continues to fare better than the national economy. The state's unemployment rate improved to 3.4% for the first nine months of 2004, down 0.9 percentage point from 4.3% in 2003. During the same nine-month period, the U.S. unemployment rate averaged 5.7%, a decrease of 0.3 percentage point from an annual jobless rate of 6.0% in 2003.

Along with the state's improving unemployment rate, job opportunities in Hawaii are trending higher. The total nonagricultural wage and salary job count for the January through September 2004 period was 577,150. This is a 2.3% increase or 12,800 more than the 564,350 average for the first nine months of 2003. All of the major sectors except information (which includes telecommunication) expanded. Two sectors – trade, transportation and utilities; and leisure and hospitality – each increased by more than 3,000 jobs and grew the fastest, each expanding by over 24 percent. Educational and health services also added more than 2,000 jobs. These three sectors combined contributed nearly two-thirds of the total job increase.

*Outlook:* This report assumes the U.S. economy will improve in 2005. The Hawaii economy will continue to perform well, too, as visitor arrivals are expected to better the 7 million mark in 2005. Construction and real estate will also continue to benefit from low interest rates.



## Labor Force Data

(Historical data from 1970: Appendix B, page A-2)

Employment in Hawaii is stronger in 2004, averaging 607,100 for the first nine months of 2004 compared to an annual average of 591,800 for calendar year 2003. Unemployment has improved from an average of 26,500 in 2003 to an average of 21,550 for the January through September 2004 period.

Hawaii's total unemployment rate (TUR), averaged 3.4% over the first nine months of 2004, improving over the 4.3% average for 2003.

The total unemployment rate for the U.S. averaged 6.0% in 2003. It has improved to an average of 5.7% for the first nine months of 2004.

*Projections for this publication assume the U.S. total unemployment rate will average 5.5% in 2004 and 5.4% in 2005, and Hawaii's TUR will average 3.4% in 2004 and 2005.*

### LABOR FORCE DATA

Unadjusted

Year	<i>Hawaii</i>			U.S. Total Unemployment Rate
	Employment	Unemployment	Total Unemployment Rate	
2002	580,750	25,750	4.2%	5.8%
2003	591,800	26,500	4.3%	6.0%
2004				
Jan	604,500	23,750	3.8%	6.3%
Feb	598,450	24,000	3.9%	6.0%
Mar	602,650	22,150	3.5%	6.0%
Apr	605,300	22,450	3.6%	5.4%
May	608,400	18,550	3.0%	5.3%
Jun	609,450	21,850	3.5%	5.8%
Jul	615,250	21,200	3.3%	5.7%
Aug	614,150	19,900	3.1%	5.4%
Sep	605,750	20,300	3.2%	5.1%
<i>Projected</i>				
2004			3.4%	5.5%
2005			3.4%	5.4%

## Insured Unemployment and Employment Covered by the Unemployment Compensation Fund

(Historical data from 1970: Appendix B, page A-3)

The average monthly number of employees covered by the Fund was 422,293 in 2003, increasing from 414,417 in 2002. Covered employees have increased to about 434,700 as of June 2004.

The insured unemployment rate (IUR) is average weekly unemployment insurance claims as a percent of covered employees. The IUR was 1.3% as of November 2004, compared to the 2003 average of 2.0%. The average weekly number of claims filed under the regular state program was 10,327 in 2003. The number of weekly claims has declined to about 7,100 as of November 2004.

*Projections for the IUR: average of 1.5% for 2004 and 1.4% in 2005.*

### INSURED UNEMPLOYMENT RATE AND EMPLOYMENT COVERED BY THE UC FUND

Year	Insured Unemployment		Employees Covered By the Fund
	Rate (IUR)	Average Weekly Claims*	
2002	2.4%	11,979	414,417
2003	2.0%	10,327	422,293
2004			
Jan	1.79%	9,587	422,757
Feb	1.79%	9,567	425,073
Mar	1.79%	9,568	427,413
Apr	1.75%	9,406	428,295
May	1.72%	9,247	430,816
Jun	1.65%	8,859	434,705
Jul	1.57%	8,430	
Aug	1.51%	8,135	
Sep	1.43%	7,719	
Oct	1.37%	7,390	
Nov	1.31%	7,101	
<i>Projected</i>			
2004	1.5%	8,300	
2005	1.4%	7,600	

\*Monthly data are for the week containing the 12<sup>th</sup> of the month and are based on 13 week moving averages.

## **Weekly Benefit Amounts and Average Duration**

*(Historical data from 1970: Appendix B, page A-4)*

The *maximum weekly benefit amount* payable to claimants will rise to \$436 for the year 2005—a \$19 increase from the \$417 maximum in 2004. Under Hawaii's law a new maximum weekly benefit amount is computed each year as 70% of the current statewide average weekly wage. Prior to 1992, the computation used 2/3 rather than 70%.

*Average weekly benefits* received by claimants increased to an average of \$310 for the 12-month period ending October 2004 as compared to an average of \$298 for calendar year 2003. A weekly benefit amount is computed for each claimant based on prior earnings. Average weekly benefits usually increase when earnings do over time. Benefits may also increase rapidly when workers with higher wages experience more unemployment, and decrease when lower wage claimants represent a larger proportion of the unemployed.

Claimants may receive up to the equivalent of 26 weeks of regular benefits at their computed weekly benefit amount. However many return to work before collecting this entire amount. The *average number of weeks of regular benefits* received per claimant was 15.9 weeks for the twelve-month period ending October 2004.

## EXPERIENCE RATING

### Description

Experience rating means that each employer's unemployment insurance tax rate is based on the employer's own benefit, contribution, and wage history. For each employer an account is kept of the amount of benefits paid to former employees and the amount of taxes paid into the Unemployment Compensation Fund. At the end of the year, a *reserve ratio* is computed for each employer and that reserve ratio determines the employer's tax rate for the coming year. Appendix A describes this procedure.

### Charged and Noncharged Benefits

*(Historical data from 1970: Appendix B, page A-9)*

For experience rating purposes benefits paid to former employees are usually charged to the employers' individual accounts. However, under certain conditions where the employer may be considered not responsible for the claimant's unemployment, the benefits paid to that former employee is *not* charged to the employer's account. The conditions for noncharging are described in Appendix C. In 2003, 16% of all benefits paid were not charged to an individual employer account. Noncharged benefits are financed by Unemployment Compensation Fund interest income or by employers as a whole by triggering a higher tax schedule due to a lower fund balance.

### 2003 Employer Data

The following tables show 2003 employment, wage, benefit and contribution data for employers who contribute to the Unemployment Compensation Fund and for whom a tax rate was computed for calendar year 2004. Information on employers who were covered under the Hawaii unemployment insurance program during 2003, but were no longer covered as of January 1, 2004, are not included in these tables. Data are shown by reserve ratio, county, size of firm, and industry groups. The reserve ratio tables show 2003 data by reserve ratios as of the end of 2003. Also shown on those tables are the 2004 tax rates assigned to each reserve ratio group.

Twelve percent of all employers were in the highest reserve ratio group, with ratios of 0.1500 and higher. These employers, the largest group of experience rated employers, were assigned the minimum 0.0% tax rate for 2004. Six percent of the employers were assigned the maximum 5.4% tax rate, mostly due to delinquent filing of tax reports.

## Employer Data

### 2003 Employment and Wage Data by Reserve Ratio

Reserve Ratio End of 2003	2004 Tax Rate	Number of Employers	% of Total	Employment	% of Total	Total Wages \$000	% of Total	Taxable Wages \$000	% of Total
.1500 and over	0.0%	3,408	12	24,663	6	741,143	6	476,393	5
.1400 to .1499	0.1%	1,003	3	13,108	3	518,479	4	297,740	3
.1300 to .1399	0.2%	1,568	5	24,355	6	716,894	5	482,892	5
.1200 to .1299	0.4%	1,672	6	43,650	11	1,428,847	11	943,355	10
.1100 to .1199	0.6%	1,625	6	46,137	11	1,528,571	12	1,027,589	11
.1000 to .1099	0.8%	1,716	6	43,187	10	1,334,746	10	966,410	11
.0900 to .0999	1.0%	1,613	6	42,703	10	1,311,438	10	922,198	10
.0800 to .0899	1.2%	2,626	9	37,603	9	1,153,526	9	796,637	9
.0700 to .0799	1.4%	1,872	6	29,940	7	939,599	7	651,062	7
.0600 to .0699	1.6%	1,943	7	28,514	7	827,029	6	583,201	6
.0500 to .0599	1.8%	630	2	14,437	3	476,303	4	331,323	4
.0300 to .0499	2.0%	740	3	15,256	4	484,925	4	342,913	4
.0000 to .0299	2.4%	659	2	11,091	3	339,324	3	249,425	3
-.0000 to -.0499	2.8%	627	2	8,299	2	292,776	2	201,267	2
-.0500 to -.0999	3.2%	333	1	3,533	1	134,855	1	92,755	1
-.1000 to -.4999	3.6%	785	3	9,435	2	428,502	3	266,210	3
-.5000 to -.9999	4.2%	227	1	1,845	0	79,672	1	53,580	1
-1.0000 to -1.4999	4.8%	91	0	769	0	25,105	0	17,671	0
-1.5000 to -1.9999	5.4%	44	0	579	0	39,301	0	21,021	0
-2.0000 and less	5.4%	86	0	163	0	5,856	0	4,136	0
New & Reactive	2.4%	4,435	15	10,550	3	306,655	2	225,067	2
N&R Neg Reserve	5.4%	151	1	205	0	6,952	0	4,949	0
Delinquent	5.4%	1,352	5	5,426	1	110,842	1	99,843	1
Total		29,206	100	415,450	100	13,231,340	100	9,057,637	100

**2003 Benefit and Contribution Data by Reserve Ratio**

Reserve Ratio <i>End of 2003</i>	2004 Tax Rate	Benefits Charged \$000	Benefits Noncharged \$000	Total Benefits \$000	% of Total	Cost Rate* %	Contributions \$000	% of Total	Tax Rate* %
.1500 and over	0.0%	1,206	594	1,800	2	0.4	1,979	1	0.4
.1400 to .1499	0.1%	632	297	929	1	0.3	1,533	1	0.5
.1300 to .1399	0.2%	1,239	665	1,904	2	0.4	3,561	2	0.7
.1200 to .1299	0.4%	2,391	1,302	3,693	3	0.4	8,673	6	0.9
.1100 to .1199	0.6%	3,162	1,445	4,606	4	0.4	11,289	7	1.1
.1000 to .1099	0.8%	3,875	1,563	5,438	5	0.6	12,769	8	1.3
.0900 to .0999	1.0%	3,985	1,898	5,883	6	0.6	13,989	9	1.5
.0800 to .0899	1.2%	5,057	1,584	6,642	6	0.8	15,335	10	1.9
.0700 to .0799	1.4%	3,389	1,485	4,874	5	0.7	12,995	8	2.0
.0600 to .0699	1.6%	4,997	1,664	6,661	6	1.1	12,721	8	2.2
.0500 to .0599	1.8%	3,337	871	4,207	4	1.3	7,270	5	2.2
.0300 to .0499	2.0%	6,301	1,111	7,412	7	2.2	8,706	6	2.5
.0000 to .0299	2.4%	6,394	831	7,225	7	2.9	7,254	5	2.9
-.0000 to -.0499	2.8%	7,603	657	8,259	8	4.1	6,527	4	3.2
-.0500 to -.0999	3.2%	4,505	305	4,810	5	5.2	3,489	2	3.8
-.1000 to -.4999	3.6%	18,870	685	19,555	18	7.3	11,998	8	4.5
-.5000 to -.9999	4.2%	5,567	180	5,747	5	10.7	2,722	2	5.1
-1.0000 to -1.4999	4.8%	2,056	51	2,107	2	11.9	934	1	5.3
-1.5000 to -1.9999	5.4%	1,427	42	1,469	1	7.0	1,135	1	5.4
-2.0000 and less	5.4%	775	20	795	1	19.2	221	0	5.3
New & Reactive	2.4%	279	52	331	0	0.1	6,717	4	3.0
N&R Neg Reserve	5.4%	175	6	180	0	3.6	185	0	3.7
Delinquent	5.4%	1,825	254	2,079	2	2.1	950	1	1.0
Total		89,046	17,562	106,608	100	1.2	152,954	100	1.7

\* Cost Rate: Total Benefits divided by Taxable Wages  
 Tax Rate: Contributions divided by Taxable Wages

### 2003 Employment and Wage Data by County

County	Number of Employers	% of Total	Employment	% of Total	Total Wages \$000	% of Total	Taxable Wages \$000	% of Total
Oahu	17,339	59	230,259	55	7,317,987	55	4,905,664	54
Maui	3,567	12	38,044	9	1,105,609	8	834,478	9
Hawaii	3,473	12	36,287	9	1,028,119	8	781,110	9
Kauai	1,547	5	16,765	4	425,693	3	335,937	4
Interstate	3,280	11	94,094	23	3,353,933	25	2,200,448	24
Total	29,206	100	415,450	100	13,231,340	100	9,057,637	100

### 2003 Benefit and Contribution Data by County

County	Benefits Charged \$000	Benefits Noncharged \$000	Total Benefits \$000	% of Total	Cost Rate* %	Contributions \$000	% of Total	Tax Rate* %
Oahu	47,316	9,072	56,387	53	1.1	80,654	53	1.6
Maui	7,714	1,849	9,563	9	1.1	15,173	10	1.8
Hawaii	8,908	1,637	10,544	10	1.3	14,811	9	1.9
Kauai	3,709	727	4,437	4	1.3	6,971	5	2.1
Interstate	21,400	4,276	25,676	24	1.2	35,345	23	1.6
Total	89,046	17,562	106,608	100	1.2	152,954	100	1.7

\* Cost Rate: Total Benefits divided by Taxable Wages  
 Tax Rate: Contributions divided by Taxable Wages

### 2003 Employment and Wage Data by Size of Firm

Employment Size	Number of Employers	% of Total	Employment	% of Total	Total Wages \$000	% of Total	Taxable Wages \$000	% of Total
Less than 5	18,376	63	31,091	7	1,048,889	8	700,475	8
5 to 9	4,607	16	32,245	8	966,768	7	655,072	7
10 to 19	2,926	10	40,604	10	1,271,517	10	842,997	9
20 to 49	1,958	7	59,995	14	1,873,914	14	1,276,210	14
50 to 99	714	2	49,237	12	1,658,934	13	1,092,537	12
100 to 249	415	1	62,234	15	1,979,513	15	1,372,258	15
250 or more	210	1	140,042	34	4,431,807	33	3,118,088	34
Total	29,206	100	415,450	100	13,231,340	100	9,057,637	100

### 2003 Benefit and Contribution Data by Size of Firm

Employment Size	Benefits Charged \$000	Benefits Noncharged \$000	Total Benefits \$000	% of Total	Cost Rate* %	Contributions \$000	% of Total	Tax Rate* %
Less than 5	10,932	1,412	12,344	12	1.8	12,874	8	1.8
5 to 9	7,337	1,237	8,574	8	1.3	11,726	8	1.8
10 to 19	10,124	1,726	11,850	11	1.4	15,577	10	1.8
20 to 49	14,624	2,962	17,586	16	1.4	24,302	16	1.9
50 to 99	10,124	2,394	12,518	12	1.1	20,053	13	1.8
100 to 249	14,015	2,967	16,981	16	1.2	25,210	16	1.8
250 or more	21,891	4,864	26,755	25	0.9	43,211	28	1.4
Total	89,046	17,562	106,608	100	1.2	152,954	100	1.7

\* Cost Rate: Total Benefits divided by Taxable Wages  
 Tax Rate: Contributions divided by Taxable Wages

### 2003 Employment and Wage Data by Industry

Industry	Number of Employers	% of Total	Employment	% of Total	Total Wages \$000	% of Total	Taxable Wages \$000	% of Total
Agriculture	692	2	11,244	3	307,040	2	243,108	3
Construction, Mining	2,172	7	24,413	6	1,214,261	9	750,111	8
Manufacturing	880	3	15,339	4	553,177	4	367,879	4
Transportation, Communication, Utilities	1,140	4	37,273	9	1,517,547	11	933,134	10
Wholesale Trade	1,952	7	19,849	5	761,296	6	487,450	5
Retail Trade	4,611	16	108,409	26	2,229,703	17	1,808,607	20
Finance, Insurance, Real Estate	3,008	10	31,056	7	1,433,382	11	814,810	9
Services	9,259	32	147,081	35	4,648,196	35	3,224,920	36
Other	5,492	19	20,785	5	566,737	4	427,618	5
Total	29,206	100	415,450	100	13,231,340	100	9,057,637	100

### 2003 Benefit and Contribution Data by Industry

Industry	Benefits Charged \$000	Benefits Noncharged \$000	Total Benefits \$000	% of Total	Cost Rate* %	Contributions \$000	% of Total	Tax Rate* %
Agriculture	4,623	415	5,038	5	2.1	4,940	3	2.0
Construction, Mining	28,708	2,199	30,907	29	4.1	26,217	17	3.5
Manufacturing	3,036	683	3,719	3	1.0	5,927	4	1.6
Transportation, Communication, Utilities	8,793	1,681	10,475	10	1.1	12,379	8	1.3
Wholesale Trade	2,531	853	3,384	3	0.7	6,775	4	1.4
Retail Trade	10,001	3,643	13,644	13	0.8	24,100	16	1.3
Finance, Insurance, Real Estate	4,559	1,341	5,900	6	0.7	10,543	7	1.3
Services	25,784	6,639	32,423	30	1.0	50,916	33	1.6
Other	1,011	107	1,119	1	0.3	11,157	7	2.6
Total	89,046	17,562	106,608	100	1.2	152,954	100	1.7

\* Cost Rate: Total Benefits divided by Taxable Wages  
Tax Rate: Contributions divided by Taxable Wages

## APPENDIX A Computation of Employer Contribution Rates

An employer's Hawaii unemployment insurance tax rate is computed once a year based on the employer's reserve ratio and the tax schedule (one of eight possible schedules, A through H) in effect for the year. The tax rates corresponding to each tax schedule and reserve ratio group are shown below in the **Contribution Rate Schedules** table.

Employers not chargeable with benefits for the 12-month period prior to the rate computation date are ineligible for an experience (reserve ratio) computation and are assigned the tax rate corresponding to a zero reserve ratio; if the ineligible employer has a negative reserve balance, a rate of 5.4% is assigned.

### Computation of Employer Reserve Ratio:

Reserve Ratio = all contributions paid by the employer minus all benefits charged to the employer, divided by 1/3 of the sum of the employer's taxable payrolls for the last 3 consecutive calendar years.

### Determination of Tax Schedule:

(a) Compute Adequate Reserve:

Adequate Reserve = 1.5 times highest benefit cost rate occurring during the last 10 years, times total wages for last completed fiscal year ending June 30.

Benefit cost rate = total benefits paid during a 12 consecutive month period, divided by total wages for the last 4 completed calendar quarters ending at least 5 months before the end of the 12 consecutive month period.

(b) Compute ratio of Current Reserve to Adequate Reserve:

Ratio = Current Reserve (Unemployment Compensation Fund balance as of November 30) divided by Adequate Reserve.

(c) Determine Tax Schedule based on ratio of current to adequate reserve as shown below.

Contribution Rate Schedules										Tax Schedule Computation	
Reserve Ratio	A	B	C	D	E	F	G	H			
	Contribution Rates (%)									Ratio of Current to Adequate Reserve	Tax Schedule
.1500 and over	0.0	0.0	0.0	0.2	0.6	1.2	1.8	2.4	More than 1.69	A	
.1400 to .1499	0.0	0.0	0.1	0.4	0.8	1.4	2.0	2.6	1.3 to 1.69	B	
.1300 to .1399	0.0	0.0	0.2	0.6	1.0	1.6	2.2	2.8	1.0 to 1.29	C	
.1200 to .1299	0.0	0.1	0.4	0.8	1.2	1.8	2.4	3.0	0.80 to 0.99	D	
.1100 to .1199	0.0	0.2	0.6	1.0	1.4	2.0	2.6	3.2	0.60 to 0.79	E	
.1000 to .1099	0.1	0.3	0.8	1.2	1.6	2.2	2.8	3.4	0.40 to 0.59	F	
.0900 to .0999	0.3	0.5	1.0	1.4	1.8	2.4	3.0	3.6	0.20 to 0.39	G	
.0800 to .0899	0.5	0.7	1.2	1.6	2.0	2.6	3.2	3.8	Less than 0.20	H	
.0700 to .0799	0.7	0.9	1.4	1.8	2.2	2.8	3.4	4.0			
.0600 to .0699	0.9	1.1	1.6	2.0	2.4	3.0	3.6	4.2			
.0500 to .0599	1.1	1.3	1.8	2.2	2.6	3.2	3.8	4.4			
.0300 to .0499	1.3	1.5	2.0	2.6	3.0	3.6	4.2	4.8			
.0000 to .0299	1.7	1.9	2.4	3.0	3.4	4.0	4.6	5.2			
-.0000 to -.0499	2.1	2.3	2.8	3.4	3.8	4.4	5.0	5.4			
-.0500 to -.0999	2.5	2.7	3.2	4.0	4.4	5.0	5.4	5.4			
-.1000 to -.4999	2.9	3.1	3.6	4.6	5.0	5.4	5.4	5.4			
-.5000 to -.9999	3.4	3.6	4.2	5.2	5.4	5.4	5.4	5.4			
-1.0000 to -1.4999	4.1	4.2	4.8	5.4	5.4	5.4	5.4	5.4			
-1.5000 to -1.9999	4.7	4.8	5.4	5.4	5.4	5.4	5.4	5.4			
-2.0000 and less	5.4	5.4	5.4	5.4	5.4	5.4	5.4	5.4			

**APPENDIX B**  
**Annual Data from 1970**

**LABOR FORCE DATA**  
unadjusted

Year	<i>Hawaii</i>			<i>U.S.</i>
	Employment	Unemployment	Total Unemployment Rate	Total Unemployment Rate
1970	305,650	15,900	4.9%	4.9%
1971	313,450	23,350	6.9%	5.9%
1972	324,050	26,950	7.7%	5.6%
1973	338,350	26,250	7.2%	4.9%
1974	345,350	29,650	7.9%	5.6%
1975	351,100	31,850	8.3%	8.5%
1976	370,000	40,000	9.8%	7.7%
1977	388,000	31,000	7.3%	7.1%
1978	388,000	32,000	7.7%	6.1%
1979	395,000	26,000	6.3%	5.8%
1980	418,000	21,000	4.9%	7.1%
1981	427,000	24,000	5.4%	7.6%
1982	430,000	31,000	6.7%	9.7%
1983	442,000	30,000	6.5%	9.6%
1984	445,000	27,000	5.6%	7.5%
1985	452,000	27,000	5.6%	7.2%
1986	468,000	24,000	4.8%	7.0%
1987	494,000	20,000	3.8%	6.2%
1988	502,000	16,000	3.1%	5.5%
1989	511,000	13,000	2.5%	5.3%
1990	527,000	15,000	2.8%	5.6%
1991	557,750	16,000	2.8%	6.8%
1992	557,450	26,650	4.6%	7.5%
1993	560,900	25,100	4.3%	6.9%
1994	545,000	35,150	6.1%	6.1%
1995	542,650	33,800	5.9%	5.6%
1996	555,750	37,850	6.4%	5.4%
1997	564,050	38,550	6.4%	4.9%
1998	565,850	37,700	6.2%	4.5%
1999	568,900	33,750	5.6%	4.2%
2000	578,200	25,800	4.3%	4.0%
2001	591,100	28,450	4.6%	4.7%
2002	580,750	25,750	4.2%	5.8%
2003	591,800	26,500	4.3%	6.0%

Source: Hawaii Workforce Informer web page ([www.hiwi.org](http://www.hiwi.org))

## APPENDIX B continued

### INSURED UNEMPLOYMENT AND EMPLOYMENT COVERED BY THE UC FUND

Year	Insured Unemployment		Employees Covered by the Fund	
	Rate	Average Weekly Claims	Number	% change
1970	2.4%	6,124	221,498	
1971	3.9%	10,789	225,633	2%
1972	4.8%	12,737	231,338	3%
1973	3.7%	10,527	246,201	6%
1974	4.2%	12,443	252,421	3%
1975	5.2%	16,939	255,772	1%
1976	6.3%	19,427	258,485	1%
1977	4.7%	14,998	267,018	3%
1978	3.4%	10,569	285,172	7%
1979	2.7%	9,798	302,404	6%
1980	2.9%	10,740	309,424	2%
1981	3.0%	11,681	311,997	1%
1982	3.5%	13,411	306,395	-2%
1983	3.5%	12,919	309,752	1%
1984	2.9%	11,104	317,669	3%
1985	2.6%	9,696	328,268	3%
1986	2.2%	8,548	337,832	3%
1987	1.7%	7,045	358,801	6%
1988	1.5%	6,452	371,952	4%
1989	1.1%	5,041	393,693	6%
1990	1.1%	5,547	416,341	6%
1991	1.5%	7,909	415,883	0%
1992	2.2%	11,520	415,275	0%
1993	2.5%	12,721	409,338	-1%
1994	2.9%	14,752	406,316	-1%
1995	3.0%	15,324	402,645	-1%
1996	3.0%	14,854	401,001	0%
1997	2.7%	13,356	400,817	0%
1998	2.5%	12,605	398,354	-1%
1999	2.2%	10,684	401,109	1%
2000	1.7%	8,413	414,768	3%
2001	2.0%	11,545	416,770	0%
2002	2.4%	11,979	414,417	-1%
2003	2.0%	10,327	422,293	2%

Source: Unemployment Insurance Fact Book

Note: Insured unemployment data includes private industry, state and county governments, and nonprofit organizations; it also includes extended benefits for 1971, 1972, 1975 through 1978, and 1980. Employment data is for private industry only.

## APPENDIX B continued

### WEEKLY BENEFIT AMOUNT AND AVERAGE DURATION

Year	Weekly Benefit Amount		Average Benefit Duration (weeks)
	<i>Maximum</i>	<i>Average</i>	
1970	\$79	\$58	15.0
1971	\$86	\$63	18.3
1972	\$90	\$66	19.9
1973	\$93	\$68	16.0
1974	\$98	\$72	16.2
1975	\$104	\$76	16.4
1976	\$112	\$84	18.9
1977	\$120	\$89	16.4
1978	\$126	\$91	16.2
1979	\$134	\$93	13.5
1980	\$144	\$103	13.7
1981	\$157	\$114	14.2
1982	\$169	\$124	14.8
1983	\$178	\$123	15.8
1984	\$188	\$136	14.8
1985	\$194	\$134	14.6
1986	\$200	\$140	14.3
1987	\$212	\$150	13.4
1988	\$223	\$162	13.5
1989	\$239	\$170	12.0
1990	\$256	\$189	11.4
1991	\$275	\$206	13.0
1992	\$306	\$235	14.8
1993	\$322	\$246	17.6
1994	\$337	\$259	17.4
1995	\$344	\$262	16.0
1996	\$347	\$261	17.8
1997	\$351	\$259	17.1
1998	\$356	\$258	16.4
1999	\$364	\$266	16.5
2000	\$371	\$273	15.4
2001	\$383	\$282	12.8
2002	\$395	\$280	19.2
2003	\$407	\$298	15.7
2004	\$417		
2005	\$436		

Source: Unemployment Insurance Fact Book

Note: Data are for all claim programs, including federal programs.

## APPENDIX B continued

### HAWAII UNEMPLOYMENT COMPENSATION FUND (in millions of \$)

Year	Taxes	Interest	Benefits	Fund Balance
1970	\$13.6	\$ 2.1	\$14.7	\$44.1
1971	\$15.3	\$ 2.1	\$28.3	\$33.3
1972	\$22.0	\$ 1.4	\$30.9	\$25.8
1973	\$24.6	\$ 1.2	\$26.7	\$25.0
1974	\$26.5	\$ 1.1	\$35.3	\$17.3
1975	\$39.4	\$ 0.7	\$52.0	\$ 5.3
1976	\$48.8	\$ 0.1	\$66.1	-\$11.9
1977	\$63.3	\$ 0.0	\$50.2	\$ 1.3
1978	\$73.6	\$ 0.6	\$38.3	\$37.2
1979	\$68.9	\$ 3.3	\$31.4	\$78.0
1980	\$58.2	\$ 7.0	\$42.6	\$100.6
1981	\$53.4	\$ 9.9	\$57.5	\$106.3
1982	\$54.9	\$11.5	\$71.1	\$101.6
1983	\$70.9	\$11.5	\$61.0	\$123.0
1984	\$67.8	\$13.4	\$63.4	\$140.9
1985	\$60.2	\$15.7	\$54.3	\$162.5
1986	\$65.4	\$12.9	\$49.3	\$191.5
1987	\$75.1	\$24.0	\$42.6	\$248.0
1988	\$51.3	\$22.5	\$44.2	\$277.7
1989	\$64.0	\$25.6	\$35.4	\$331.9
1990	\$79.5	\$31.3	\$45.0	\$397.7
1991	\$55.2	\$26.8	\$76.0	\$403.8
1992	\$40.9	\$41.7	\$129.6	\$356.7
1993	\$67.0	\$25.5	\$145.4	\$303.9
1994	\$77.0	\$19.6	\$171.6	\$228.9
1995	\$150.0	\$15.7	\$180.4	\$214.2
1996	\$152.4	\$14.9	\$173.3	\$208.2
1997	\$144.2	\$14.7	\$154.2	\$212.9
1998	\$136.8	\$15.1	\$143.3	\$221.5
1999	\$134.1	\$15.7	\$124.1	\$247.2
2000	\$138.9	\$17.8	\$96.9	\$307.0
2001	\$106.3	\$21.1	\$136.1	\$298.2
2002	\$134.6	\$24.2	\$152.7	\$304.3
2003	\$147.0	\$14.4	\$123.6	\$342.0

Source: ETA2112, UI Financial Transaction Summary, Unemployment Fund

## APPENDIX B continued

### RATIO OF CURRENT TO ADEQUATE RESERVE FUND

Rate Year	High Cost Rate	Total Wages	Adequate Reserve Fund	Current Reserve Fund	Ratio of Current to Adequate Reserve	Rate Schedule in Effect	Fund Solvency Contribution Rate
1970	1.75%	\$1,184,552,472	\$31,094,502	\$43,936,906	1.41	II	
1971	1.75%	\$1,431,300,051	\$37,571,626	\$46,163,790	1.23	II	
1972	1.75%	\$1,560,306,438	\$40,958,044	\$36,349,934	0.89	I	
1973	2.02%	\$1,643,467,385	\$49,797,062	\$28,304,965	0.57	I	
1974	2.02%	\$1,821,684,864	\$55,197,051	\$27,420,364	0.50	I	
1975	2.02%	\$2,015,606,435	\$61,072,875	\$20,073,147	0.33	I	
1976	2.18%	\$2,247,956,108	\$73,508,165	\$10,730,152	0.15	-	
1977	2.86%	\$2,389,822,190	\$102,523,372	-\$7,426,119	-0.07	-	
1978	2.86%	\$2,578,562,218	\$110,620,319	\$5,992,114	0.05	-	
1979	2.86%	\$2,859,429,314	\$81,779,678	\$39,159,914	0.48		+1.6%
1980	2.86%	\$3,314,556,620	\$94,796,319	\$80,341,186	0.85		+0.8%
1981	2.86%	\$3,769,977,490	\$107,821,356	\$104,980,243	0.97		+0.4%
1982	2.86%	\$4,111,362,943	\$117,584,980	\$112,290,817	0.95		+0.4%
1983	2.86%	\$4,292,985,503	\$122,779,385	\$106,708,377	0.87		+0.8%
1984	2.86%	\$4,498,499,775	\$128,657,094	\$127,176,245	0.99		+0.4%
1985	2.86%	\$4,801,506,793	\$137,323,094	\$147,004,681	1.07		0.0%
1986	2.86%	\$5,037,888,349	\$144,083,607	\$166,408,163	1.15		0.0%
1987	2.76%	\$5,500,278,375	\$151,807,683	\$195,095,469	1.29		0.0%
1988	1.94%	\$6,093,516,291	\$118,214,216	\$246,416,114	2.08		-0.5%
1989	1.68%	\$6,864,348,520	\$115,321,055	\$274,840,914	2.38		-0.5%
1990	1.68%	\$7,756,988,055	\$130,317,399	\$334,252,180	2.56		-0.5%
1991	1.68%	\$8,753,700,993	\$147,062,177	\$401,647,674	2.73		-0.5%
1992	1.68%	\$9,561,673,898	\$240,954,182	\$411,119,192	1.71	A	
1993	1.66%	\$9,996,218,073	\$248,905,830	\$370,277,128	1.49	B	
1994	1.49%	\$10,315,548,416	\$230,552,507	\$315,881,780	1.37	B	
1995	1.65%	\$10,384,936,463	\$257,027,177	\$241,892,817	0.94	D	
1996	1.73%	\$10,401,361,958	\$269,915,343	\$226,972,601	0.84	D	
1997	1.78%	\$10,391,160,430	\$277,443,983	\$222,340,367	0.80	D	
1998	1.78%	\$10,554,781,603	\$281,812,669	\$226,036,037	0.80	D	
1999	1.78%	\$10,782,123,532	\$287,882,698	\$233,020,224	0.81	D	
2000	1.78%	\$11,025,705,500	\$294,386,337	\$256,407,449	0.87	D	
2001	1.78%	\$11,661,028,670	\$311,349,465	\$313,480,166	1.01	C	
2002	1.78%	\$12,294,711,901	\$328,268,808	\$317,703,649	0.97	C*	
2003	1.78%	\$12,412,503,464	\$331,413,842	\$309,477,079	0.93	D	
2004	1.78%	\$13,070,239,827	\$348,975,403	\$352,679,746	1.01	C	
2005	1.78%	\$13,820,414,010	\$369,005,054	\$389,302,103	1.06	C	

*Rate year:* year during which rate schedule or Fund Solvency Rate is in effect.

*High Cost Rate:* highest benefit cost rate (benefits as a percent of total wages) in the last ten years.

*Total Wages:* for last four calendar quarters ending June 30 of calendar year prior to rate year.

*Adequate Reserve Fund:* from 1970 through 1978, and from 1992 adequate reserve equals 1.5 times high cost rate times total wages. From 1979 through 1991, adequate reserve equals high cost rate times total wages.

*Current Reserve Fund:* Unemployment Compensation Fund assets on November 30 of calendar year immediately preceding rate year.

*Rate Schedule in Effect:* Effective July 1, 1974 through March 31, 1975 all employers' tax rates were increased by 0.5%, up to a maximum of 3.0%; from April 1975 through the end of 1976, all employers paid 3.0% tax rate; for 1977 and 1978 all employers paid 3.5% tax rate. \*For 2002, schedule C remained in effect due to special legislation.

## APPENDIX B continued

### UNEMPLOYMENT INSURANCE TAX RATES

Year	Tax Rates (Percent of Taxable Wages)			Taxes as a Percent of Total Wages
	Minimum	Maximum	Average	
1970	0.4%	3.0%	1.2%	0.8%
1971	0.4%	3.0%	1.4%	1.0%
1972	0.8%	3.0%	1.9%	1.3%
1973	0.8%	3.0%	1.8%	1.2%
1974	0.8%/1.3%	3.0%	1.9%	1.2%
1975	1.3%/3.0%	3.0%	2.6%	1.7%
1976	3.0%	3.0%	2.9%	1.9%
1977	3.5%	3.5%	3.5%	2.4%
1978	3.5%	3.5%	3.5%	2.4%
1979	1.8%	4.5%	2.8%	1.9%
1980	1.0%	4.5%	2.1%	1.4%
1981	0.6%	4.5%	1.8%	1.2%
1982	0.6%	4.5%	1.8%	1.3%
1983	1.0%	4.5%	2.3%	1.6%
1984	0.6%	4.5%	1.9%	1.3%
1985	0.2%	5.4%	1.6%	1.1%
1986	0.2%	5.4%	1.7%	1.2%
1987	0.2%	5.4%	1.7%	1.2%
1988	0.0%	5.4%	1.3%	0.6%
1989	0.0%	5.4%	1.3%	0.9%
1990	0.0%	5.4%	1.3%	0.9%
1991	0.0%	5.4%	1.3%	0.5%
1992	0.0%	5.4%	0.6%	0.4%
1993	0.0%	5.4%	1.0%	0.7%
1994	0.0%	5.4%	1.1%	0.8%
1995	0.2%	5.4%	2.2%	1.6%
1996	0.2%	5.4%	2.1%	1.5%
1997	0.2%	5.4%	1.9%	1.4%
1998	0.2%	5.4%	1.8%	1.3%
1999	0.2%	5.4%	1.7%	1.2%
2000	0.2%	5.4%	1.7%	1.2%
2001	0.0%	5.4%	1.1%	0.8%
2002	0.0%	5.4%	1.2%	0.8%
2003	0.2%	5.4%	1.7%	1.2%
2004	0.0%	5.4%	1.2% <i>est</i>	0.8% <i>est</i>
2005	0.0%	5.4%	1.2% <i>est</i>	0.8% <i>est</i>

Source: Quarterly Covered Employment and Wages

Note for 1974 and 1975: Minimum tax rate was 0.8% until July 1, 1974 then all employers' rates were increased by 0.5%, up to a maximum of 3.0%. The additional 0.5% was in effect until April 1, 1975 when all employers' rates became 3.0%.

Note for 2002: Tax Schedule C remained in effect by special legislation.

## APPENDIX B continued

### TOTAL AND TAXABLE WAGES

Year	Total Wages	% change	Taxable Wages	% change	% Taxable of Total Wages	Taxable Wage Base
1970	\$1,518,727,161		\$1,032,646,028		68%	\$5,500
1971	\$1,588,451,281	5%	\$1,101,177,779	7%	69%	\$6,000
1972	\$1,707,659,488	8%	\$1,171,863,417	6%	69%	\$6,300
1973	\$1,935,415,073	13%	\$1,310,016,575	12%	68%	\$6,500
1974	\$2,129,778,886	10%	\$1,418,777,880	8%	67%	\$6,800
1975	\$2,319,971,771	9%	\$1,537,695,558	8%	66%	\$7,300
1976	\$2,471,414,660	7%	\$1,634,221,510	6%	66%	\$7,800
1977	\$2,669,873,342	8%	\$1,890,965,749	16%	71%	\$9,300
1978	\$3,084,161,546	16%	\$2,153,653,091	14%	70%	\$9,800
1979	\$3,551,357,801	15%	\$2,443,433,910	13%	69%	\$10,400
1980	\$3,934,930,405	11%	\$2,689,241,050	10%	68%	\$11,200
1981	\$4,227,065,294	7%	\$2,921,073,895	9%	69%	\$12,200
1982	\$4,349,032,222	3%	\$3,030,663,748	4%	70%	\$13,100
1983	\$4,599,981,090	6%	\$3,198,088,181	6%	70%	\$13,800
1984	\$4,891,168,412	6%	\$3,430,347,509	7%	70%	\$14,600
1985	\$5,245,375,308	7%	\$3,661,947,705	7%	70%	\$15,100
1986	\$5,686,112,648	8%	\$3,922,702,338	7%	69%	\$15,600
1987	\$6,402,054,956	13%	\$4,391,057,014	12%	69%	\$16,500
1988	\$7,192,157,365	12%	\$3,314,009,708	-25%	46%	\$8,700
1989	\$8,130,492,059	13%	\$5,518,167,643	67%	68%	\$18,600
1990	\$9,237,628,172	14%	\$6,226,942,266	13%	67%	\$19,900
1991	\$9,599,527,870	4%	\$3,342,374,834	-46%	35%	\$7,000
1992	\$10,155,519,160	6%	\$7,042,429,428	111%	69%	\$22,700
1993	\$10,291,898,574	1%	\$7,251,815,678	3%	70%	\$23,900
1994	\$10,309,424,610	0%	\$7,394,972,486	2%	72%	\$25,000
1995	\$10,320,158,899	0%	\$7,411,024,845	0%	72%	\$25,500
1996	\$10,443,561,580	1%	\$7,420,054,226	0%	71%	\$25,800
1997	\$10,675,517,263	2%	\$7,483,098,627	1%	70%	\$26,000
1998	\$10,899,921,524	2%	\$7,560,072,702	1%	69%	\$26,400
1999	\$11,180,959,288	3%	\$7,748,893,876	2%	69%	\$27,000
2000	\$11,945,344,421	7%	\$8,209,730,134	6%	69%	\$27,500
2001	\$12,299,179,723	3%	\$8,455,669,862	3%	69%	\$28,400
2002	\$12,701,746,952	3%	\$8,701,690,997	3%	69%	\$29,300
2003	\$13,376,170,472	5%	\$9,155,378,879	5%	68%	\$30,200
2004						\$31,000
2005						\$32,300

Source: Wages from ES-202

## APPENDIX B continued

### CHARGED AND NONCHARGED BENEFITS

*(in millions of \$)*

Year	Total Benefits	Charged Benefits	% of Total	Noncharged Benefits	% of Total
1970	\$14.7	\$8.8	60%	\$5.9	40%
1971	\$27.9	\$18.2	65%	\$9.7	35%
1972	\$28.0	\$18.2	65%	\$9.8	35%
1973	\$26.3	\$15.7	60%	\$10.6	40%
1974	\$34.9	\$21.3	61%	\$13.7	39%
1975	\$47.0	\$30.1	64%	\$16.8	36%
1976	\$57.5	\$43.1	75%	\$14.4	25%
1977	\$45.1	\$44.3	98%	\$0.9	2%
1978	\$36.0	\$35.6	99%	\$0.4	1%
1979	\$30.5	\$30.2	99%	\$0.3	1%
1980	\$40.7	\$40.2	99%	\$0.5	1%
1981	\$56.7	\$56.1	99%	\$0.6	1%
1982	\$70.5	\$69.9	99%	\$0.6	1%
1983	\$60.9	\$59.7	98%	\$1.2	2%
1984	\$62.4	\$61.8	99%	\$0.6	1%
1985	\$53.9	\$53.4	99%	\$0.5	1%
1986	\$48.4	\$47.8	99%	\$0.6	1%
1987	\$43.6	\$36.6	84%	\$7.0	16%
1988	\$44.1	\$35.3	80%	\$8.8	20%
1989	\$35.4	\$26.9	76%	\$8.5	24%
1990	\$44.2	\$30.9	70%	\$13.3	30%
1991	\$76.5	\$56.6	74%	\$19.9	26%
1992	\$129.1	\$101.7	79%	\$27.4	21%
1993	\$144.8	\$105.9	73%	\$38.9	27%
1994	\$170.5	\$137.9	81%	\$32.6	19%
1995	\$178.9	\$148.0	83%	\$30.9	17%
1996	\$171.7	\$145.5	85%	\$26.2	15%
1997	\$153.8	\$131.5	85%	\$22.3	15%
1998	\$142.4	\$121.9	86%	\$20.5	14%
1999	\$123.2	\$104.4	85%	\$18.8	15%
2000	\$96.1	\$79.6	83%	\$16.4	17%
2001	\$132.9	\$109.9	83%	\$22.9	17%
2002	\$144.7	\$120.0	83%	\$24.6	17%
2003	\$122.2	\$102.9	84%	\$19.3	16%

Source: ETA-204, Experience Rating Report  
Includes regular program benefits only; does not include extended benefits

## **APPENDIX C**

### **Benefits Not Charged to Employer Accounts**

The following types of unemployment insurance benefits are not charged to individual employer's unemployment insurance accounts:

- a. Benefits paid to a claimant based on wages from an employer from whom the claimant voluntarily quit work without good cause<sup>1</sup>;
- b. Benefits paid to a claimant based on wages from an employer from whom the claimant was discharged for misconduct connected with work;
- c. Benefits paid to a claimant based on wages from an employer from whom the claimant left work voluntarily for a good cause that was not attributable to the employer;
- d. Benefits paid to an individual who during that individual's base period earned wages for part-time employment with an employer, are not charged to that employer if the employer continues to employ the individual to the same extent while the individual is receiving benefits as during the individual's base period;
- e. Benefits paid to an individual for the period that individual is enrolled in and is in regular attendance at an approved training course;
- f. One-half of Extended Benefits (the other half of EB is financed with federal unemployment tax funds)<sup>2</sup>;
- g. Benefits paid to an individual who qualifies to receive benefits by meeting the minimum earnings and employment requirements only by combining the individual's employment and wages earned in two or more states<sup>3</sup>;
- h. Benefits overpaid to a claimant as a result of ineligibility or disqualification, unless the overpayment resulted from the employer's failure to furnish information as required;
- i. Benefits paid to an individual based on wages from an employer from whom the individual is separated as a direct result of a major disaster.<sup>4</sup>

---

<sup>1</sup>Benefits described in a, b, and c were chargeable from July 15, 1976 through October 4, 1986.

<sup>2</sup>EB was chargeable from January 1, 1985 through October 4, 1986.

<sup>3</sup>Benefits described in g and h became nonchargeable from July 15, 1976.

<sup>4</sup>Effective from September 13, 1992.

## **APPENDIX D**

### **The Hawaii Unemployment Compensation Fund and Economic Conditions: 1970 to the Present**

- 1970** The 1970s began with a low IUR (Insured Unemployment Rate) of slightly above 2% and high fund reserves in excess of \$40 million.
- 1971** Unemployment increased throughout 1971 in the aftermath of the Mainland recession, and due partly to a lengthy dock strike in the second half of the year. The Extended Benefits program was initiated allowing an additional 13 weeks of unemployment insurance benefits to be paid to claimants who exhaust their 26 weeks of regular benefits during periods of high unemployment. Hawaii paid extended benefits from October 1971 through December 1972. Increasing unemployment and additional benefits paid out under the Extended Benefits program caused benefit outgo to increase and the fund balance to decline.
- 1972** The fund continued to decline as additional dock strikes and continuing Extended Benefits payments caused benefit outgo to remain high.
- 1973** Unemployment decreased slightly causing the fund balance to remain relatively level.
- 1974** The IUR began to climb again as Mainland recessionary conditions started affecting Hawaii.
- 1975** Hawaii began a new Extended Benefits period beginning in February 1975 as unemployment continued to increase. This EB period continued until March 1978 (except for a short break in the program during August 1977).
- 1976** The IUR reached a peak of 7% in the first half of 1976. During the 1974 through 1976 period the fund balance was drastically reduced by the unprecedented high level of unemployment and corresponding high benefit outgos. The fund was depleted in 1976. Benefits continued to be paid during the year through the use of \$22.5 million in federal loans to the fund.
- 1977** The economy began to improve slightly, although construction strikes caused unemployment to temporarily increase at the end of 1977 and early 1978. In order to rejuvenate the fund, tax rates, which had been gradually increasing during the 1970s, were set at a uniform rate of 3.5% for 1977.
- 1978** The flat 3.5% tax rate continued to be in effect. As the economy improved, the IUR steadily declined until it leveled off at about 3% during the second half of the year. With the increased income and declining outgo, the fund balance was brought out of its negative levels and the federal loan was repaid late in 1978.
- 1979** Varied tax rates for employers (experience rating) was reinstated; this caused fund income to decline slightly from the high 1978 level. Benefits remained relatively low, resulting in a further increase in the fund balance to \$78 million by the end of 1979.
- 1980** Employer tax rates were again decreased based on the healthy fund reserves. Although Hawaii's unemployment remained low, an Extended Benefits period was triggered on by high national unemployment. This EB period was from July 1980 to January 1981. Fund income exceeded outgo and reserves reached \$100.6 million by the end of 1980.
- 1981-1984** Unemployment was very stable with the IUR fluctuating only between 2.5% and 3.5%, weathering airline, construction, and other strikes occurring during this time. The fund balance was kept at about the adequate reserve level throughout the period
- 1985** Tax schedules were adjusted to include a maximum tax rate of 5.4% in order to allow employers to continue to receive full tax credits under the Federal Unemployment Tax Act (FUTA).
- 1986-1987** The tourism and construction industries were in a boom period resulting in declining unemployment and a growing fund balance.

## APPENDIX D continued

- 1988** The high fund balance resulted in the triggering of a negative Fund Solvency Rate for the first time. Also, a one-year special law provision cut the Taxable Wage Base to 50% of the statewide average annual wage.
- 1989** Unemployment continued to decline with the IUR reaching an all time low of 0.96% in December 1989. The fund continued to be more than twice the adequate reserve level allowing the negative 0.5% Fund Solvency Rate to remain in effect.
- 1990** Despite Mainland recessionary conditions, Hawaii tourism and construction continued to do well through 1990. Although a hotel strike during March caused a temporary rise in unemployment, the average IUR for the year remained level with 1989.
- 1991** The Persian Gulf War triggered a slowdown in March as tourist traffic declined dramatically and unemployment jumped. Mainland recessionary conditions began affecting Hawaii's economy as unemployment remained high through the year especially in the construction and tourism related industries. A one-year special provision cut the taxable wage base to \$7,000.
- 1992** A new tax schedule system was implemented and the lowest tax schedule (A) was in effect for 1992. Hurricane Iniki hit the islands in September 1992 resulting in major damage and high unemployment on Kauai. Mainland and Japanese recessionary conditions continued to weaken the tourist and construction sectors. The end of year fund balance declined from the previous year for the first time since 1982. Emergency Unemployment Compensation (EUC) benefits were paid to claimants from November 1991 through April 1994. These benefits, paid to claimants who exhausted their regular state benefits, were 100% federally funded.
- 1993-1994**  
Tax schedule B was in effect for 1993 and 1994, keeping the average unemployment tax rate at a low 1%. At the same time the tourism and construction sectors remained sluggish causing large benefit payouts from the fund.
- 1995-1998**  
The economy remained flat from 1995 through 1998, with benefit levels declining slightly each year. The fund balance stabilized at around \$210 million and tax schedule D stayed in effect from 1995 through 1998.
- 1999-2000**  
The economy was on the rise with insured unemployment dropping below 2% and the fund balance reaching \$300 million levels, triggering tax schedule C for 2001.
- 2001-2002**  
In the aftermath of terrorist attacks on the World Trade Center and the Pentagon on September 11, 2001, the number of unemployed increased and the fund balance began to drop. Special legislation provided Hawaii claimants exhausting regular benefits between September 11, 2001 and June 30, 2002 with 13 weeks of additional benefits and kept tax schedule C in effect for calendar year 2002. A special federally funded program, Temporary Extended Unemployment Compensation (TEUC) also provided an additional 13 weeks of benefits to claimants, effective from March 10 to December 31, 2002.
- 2003-2004**  
The federal TEUC program was extended to December 31, 2003 with a transition period for the continuation of payments to individuals, who have balances as of the end of December, to March 31, 2004. Effective from April 20, 2003 through December 28, 2003, displaced airline and related workers who exhaust their 26 weeks of regular benefits may receive up to 39 weeks of additional federally funded TEUC-A benefits. Throughout 2004, Hawaii's unemployment dropped significantly resulting in a growing trust fund.

**WORKFORCE DEVELOPMENT DIVISION -  
The Employment and Training Fund Program (ETF)**

The ETF program serves the training needs of the community by simultaneously addressing economic development and workforce development, which are critical to the continued viability and growth of the State. Unlike federal job training programs that serve only individuals who face employment barriers, ETF is able to provide businesses the opportunity to upgrade the skills of the workforce from entry-level to top management. Training allows workers to acquire job skills necessary to keep pace with local, national, and international competitors.

The purpose of the ETF program is to “assist employers and workers through innovative programs to include, but not limited to, business-specific training, upgrade training, new occupational skills, and management skills training to improve the long-term employability of Hawaii’s people.” There are two ways in which employers and employer groups can access ETF funds: 1) Statewide and Countywide Training Grants (macro) and 2) ETF’s Employer Referral Program (micro).

ETF awards macro (organizational/community level) grants to business associations and consortia to develop customized training projects that address industry training needs in the state. These grants provide “seed money” for innovative education and training curricula and program design. Each plan must include, but are not limited to a needs assessment, project guidelines, marketing and delivery plan, and a self-sufficiency component to ensure the continuation of training beyond the grant period. Business and industry consortia are required to provide cash and/or in-kind contributions to strengthen their commitment to the project. Approximately 18,653 individuals have been trained through the macro program.

In 1996, the department expanded the ETF program to include training opportunities to individual businesses. Unlike the macro program, individual employers need not submit a comprehensive plan to develop new training curricula, program design, and instruction. The micro program enables employers to register their workers for existing short-term, non-credit training courses offered by ETF approved public and private training vendors to upgrade employees’ capabilities in order to meet the competitive demands of the workplace. The program is open to all within a company: owners, managers, supervisors, and workers. ETF will pay 50% of the cost for any course taken that meets ETF eligibility criteria. To date, approximately 61,841 individuals have been trained through the micro program.

Other states like Florida and California have legislatively mandated a fifty percent in-kind contribution towards training costs. To balance the responsibilities and partnership between the state and business sectors, Hawaii’s legislators followed similar guidelines. The intent was to develop a collaborative approach in workforce preparation and strengthen and improve workforce policies and programs that meet Hawaii’s job market needs.

ETF funds are generated through an employer assessment collected together with unemployment insurance contributions. These special funds are targeted specifically to help keep Hawaii’s workforce competitive and employed at the cutting edge of their chosen profession and occupations. During the 2002 Legislative Session, lawmakers made the ETF program permanent. They also lowered the assessment rate of .05 percent to .01 percent of taxable wages, while setting a nominal cost for users of the ETF (Act 248). Employers who access ETF funds for training are required to contribute up to fifty percent of the cost of assistance.

For Fiscal Year (FY) 2003-2004, ETF’s revenue less expenditures resulted in net resources of \$1,980,542. This amount minus \$1,221,580 in grant encumbrances left a fund balance of \$758,962 for FY 2004-2005.

Twenty-one (21) of ETF’s authorized training vendors deliver a wide array of training opportunities through the micro program. Given the increasing importance of technology in the workplace, it is not surprising that computer-related courses are the most requested by business. For example, of the 4,921 registrations, 2,785 participants enrolled in this particular training category. This represents over half or 57% of all enrollments in the various training courses funded by ETF. Some of the courses most requested by Hawaii’s employers include: basic, intermediate, and advanced courses in the more popular computer applications, such as word processing, spreadsheets, database, and presentations, as well as, computer-aid design (CAD), desktop publishing, local area networking (LAN), programming, and Internet/web page design. Other popular courses requested by employers/employees were in the areas of soft training, business/managerial, food safety, health, human services, travel, and transportation/vehicle training.

In FY 2003-2004, ETF users increased by more than 54% as compared to the previous year. Approximately 3,124 participants accessed ETF training funds. These participants registered for 4,921 classes, increasing class

enrollments by about 52%, averaging 1.58 classes per participant. On Hawaii, ETF funded a total of 477 classes; on Kauai, the number was 575; on Maui, 528; and on Oahu, 3,341 classes.

Employer demand for ETF assistance increased by over 25%, serving 772 businesses. These include 91 employers on Kauai, 133 on the Big Island, 98 on Maui, and 450 on Oahu.

Although ETF has not generated any macro grants this past program year, the micro program has:

- Reduced staffing statewide and consolidated program operations and procedures.
- Restructured ETF's enrollment and fiscal procedures, developed new forms and program instructions for participants, updated procedural manuals for staff, established procedures to account for employer's matching contributions, and amended ETF's policies and procedures.
- Extended 21 (of the 24) supplemental training vendor agreements for another year until another RFP was issued and new agreements are executed in January 2005.
- Conducted training sessions for ETF managers, supervisors, counselors, and training vendors on ETF procedures.

**Fiscal Year 2003 -2004, ETF Financial Status Report**

The following table describes ETF funding for FY 2003-2004. ETF funds are maintained in a special fund. Any portion unexpended at the close of each fiscal year remains in the special fund.

Fiscal Year 2003-2004		
Beginning Balance:		\$2,080,582
Total Revenue:	\$1,048,580	
Expenses:		
Administrative	\$ 117,752	
Grant Expenditures	\$1,030,868	
Total Expenses:	\$1,148,620	
Net Revenue:		<u>(\$ 100,040)</u>
Net Resources:		\$ 1,980,542
Grant Funds Encumbered:		<u>(\$ 1,221,580)</u>
<b>Fund Balance</b>		<b><u>\$ 758,962</u></b>

# A REPORT TO THE GOVERNOR

## HAWAII'S WORKFORCE IN 2005: ADDRESSING THE LABOR SHORTAGE AND IMPROVING THE PIPELINE



DECEMBER 2004

HAWAII WORKFORCE DEVELOPMENT COUNCIL  
DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS

**Hawai`i's Workforce in 2005:  
Addressing the Labor Shortage and  
Improving the Pipeline**

**2005 Report to the Governor**

**December 2004**

**Hawai`i Workforce Development Council**

**THE HONORABLE LINDA LINGLE  
GOVERNOR, STATE OF HAWAII**

**NELSON B. BEFITEL  
STATE OF HAWAII DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS**

**HAWAII WORKFORCE DEVELOPMENT COUNCIL**

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STATE OF HAWAII  
WORKFORCE DEVELOPMENT COUNCIL  
DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS  
830 Punchbowl Street, Room 417  
Honolulu, Hawaii 96813

December 2004

The Honorable Linda Lingle  
Governor, State of Hawai'i  
State Capitol  
Honolulu, Hawai'i 96813

Dear Governor Lingle:

I am pleased to transmit the Workforce Development Council's *2005 Report to the Governor*, which, on pages 2 and 3, recommends 13 actions and priority policies for you to consider. We have emphasized strategies to address the long-term labor shortage facing the State and the need to improve the preparedness of Hawai'i's workforce. The insert, *A Funding Summary 2003-2004*, presents the education expenditures in proportion to the almost \$92 million of workforce employment and training programs to assist targeted special populations. To increase our labor pool, these are the very groups that we must integrate better into the workforce.

The contents of this 2005 report incorporate the joint response to HCR 112, H.D. 1 Requesting the Department of Business, Economic Development and Tourism and the Workforce Development Council to Report to the Legislature Regarding the Identification and Development of Labor Supply and Demand Matrices, and the Expansion of the Educational Pipeline Subsequent to the Enactment of Act 148, Session Laws of Hawai'i 2003.

Sincerely,

A handwritten signature in black ink that reads "Gregg Yamanaka".

Gregg Yamanaka  
Chair

### **Photo Credits**

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Workforce Development Council – cover

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# Hawai`i's Workforce in 2005: Addressing the Labor Shortage and Improving the Pipeline

This year the Workforce Development Council (WDC) has organized its report around a response to HCR 112, H.D. 1 (SLH 2004). That resolution requested “**the Department of Business, Economic Development and Tourism and the Workforce Development Council to Report to the Legislature Regarding the Identification and Development of Labor Supply and Demand Matrices, and the Expansion of the Educational Pipeline Subsequent to the Enactment of Act 148, Session Laws of Hawaii 2003**”<sup>1</sup>. The WDC partnership among education and economic and workforce development seeks to deliver ample and trained workers to good jobs that pay well. To do so, we need to ease a tight labor supply and improve the school-to-work pipeline.

## Executive Summary

Last year, the WDC's report to the Governor warned of how the emerging short-term and potential long-term labor shortages could stifle economic investment and diversification. The report stressed the need to 1) better educate Hawai`i's youth; 2) move more people into and through the education-to-work pipeline; and 3) involve the private sector more in workforce preparation.

Through HCR 112, the 2004 Legislature asked the WDC and DBEDT for an update on implementation of Act 148, specifically on efforts to identify industry clusters, workforce preparation for those industry clusters, and efforts to increase the number of people seeking post-secondary degree or certificates.

The primary vehicle for the Council's investigation of these issues has been its National Governors' Association (NGA) Pathways to Advancement project. This effort looked closely at what is needed to assure a diverse competitive workforce that supports the economic development goals of the State. It also studied cross-cuts of industry/occupation/education requirements and compared those with job openings and state demographics.

The most significant conclusions of this effort are that, no matter what industry one considers:

1. Hawai`i's education and training system has the range of training available to address the needs of nearly any industry identified to date. Key is businesses' communication to education of their custom needs and how many will need to be trained.
2. Perhaps more critical than the availability of training is the availability of participants. Hawai`i is experiencing a cyclical labor shortage and faces the prospect of a long-term labor shortage due to basic demographics.
3. To address the short-term and long-term shortage, more people must enter and continue in Hawai`i's pipeline from high school and from low income jobs into post-secondary education, as the future jobs paying a living wage generally require education beyond high school.
4. Workers with portable skills will succeed in most industries.

*Hawai`i's education system can respond to industry needs.*

*Address long-term labor shortage.*

*Increase the number of people entering and continuing in Hawai`i's pipeline to post-secondary education.*

*Ensure workers have portable skills.*







**Table 1. Hawai'i's Population Distribution by Age**



Source: U.S. Census Bureau, 2000 Census

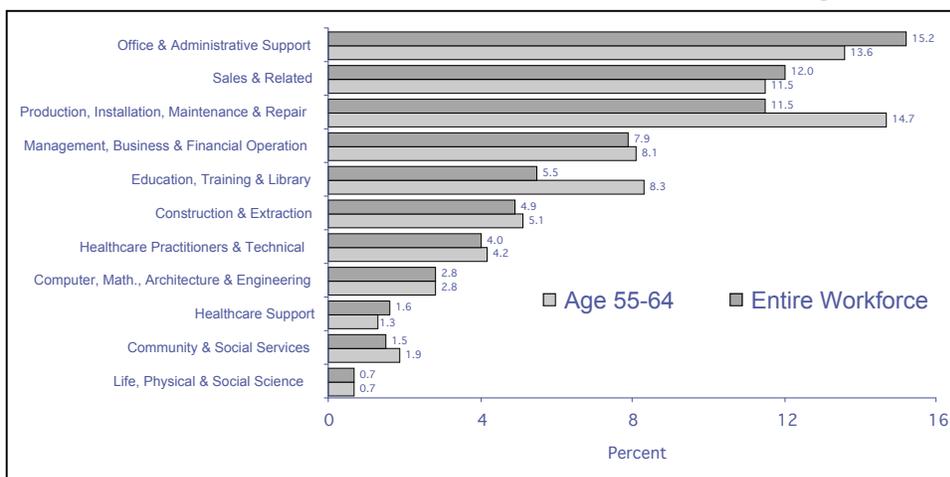
### I. General Labor Shortage

The emerging labor shortage is the context for WDC's assessment of how well Hawai'i's workforce development sector can support a strong state economy. Hawai'i has a somewhat smaller proportion of workers between ages 18 and 45 due to demographics as well as the outflow of people during the State's decade of economic stagnation. (See Table 1).

As this labor shortage tightens, essential services are becoming

strained. Public schools, which educate youth and remediate adults, and police departments, which provide public protection and safety, are already affected. Moreover, Table 2 shows that there is a preponderance of older workers (55-64 year olds) in education and in production/installation/maintenance/repair. Therefore, these fields will have particularly high labor demands as these mature workers retire in increasing numbers in the coming years.

**Table 2. Workers in Critical Jobs are Near Retirement Age**



Source: U.S. Census Bureau, 2000 Census; 5%PUMS Files

## Workforce Strategies to Meet Labor Demand

*WDC recommends that the Hawai'i Teacher Standards Board recognize alternative certification.*

*WDC recommends that the State expand the post-secondary capacity to train nurses.*

### Alternative Teacher Certification.

It is imperative that Hawai'i have a sufficient number of qualified teachers in the classroom if young people in the K-12 system are to be well-prepared for higher education and jobs.

Hawai'i and the nation face a serious shortage of qualified teachers, especially for mathematics, physical science, special education, and bilingual education. In 2004, WDC supported the intent of a Senate bill to allow the DOE to hire professionals as exceptional teachers and to authorize alternatives to teacher licensing. Hawai'i is not alone in this effort. There are two notable national models for alternative teacher certification.

- New Jersey has one of the most successful "alternate route" teacher certification programs in the U.S. School districts have expanded their teacher pool by bringing in candidates – mostly recent college graduates – with academic expertise and an interest in teaching but unwilling to invest the time and money to graduate from a College of Education. Hired without any credentials except their undergraduate degrees, they 1) undergo classroom mentoring with a veteran teacher; 2) take a much-condensed version of the traditional education courses; 3) have to pass a state-administered subject matter test. They are certified after completing these three steps, with the principal's confirmation they can perform in the classroom.

As of September 2000, New Jersey reported that more than 20% of new teachers had come through the alternative certification route. This number has since increased to 40% in 2003. These teachers have substantially higher scores on the state's subject-matter tests and lower attrition rates than traditionally-trained teachers.<sup>2</sup>

- Since 2001, the U.S. Department of Education's Transition to Teaching Program has been providing five-year grants to State educational agencies to support efforts to recruit, train, and place talented and knowledgeable individuals in teaching positions and to support them during their first years in the classroom.<sup>3</sup>

Registered Nurses. There is a critical shortage of registered nurses (RNs) in Hawai'i. The shortage in 2000 was 1,041, and is expected to grow to 1,518 by 2005 and 2,267 by 2010.

Yet UH nursing programs turned away 243 qualified applicants in Fall 2003 due to lack of nursing faculty. To admit approximately 90 additional nursing students a year, the UH Systemwide Nursing Council requested \$5.3 million for 18 new nursing faculty positions, \$3.6 million to provide competitive salary adjustments to retain current nursing faculty, and \$1.7 million for UH nursing programs.

**Table 3. Hawai'i Needs 22,000 New Workers Each Year Through 2012:  
Average Annual Openings, 2002-2012**

Occupational Category	Due to Growth	Due to Separations	Total	Percent
Total, All Occupations	8,270	13,620	21,890	100.0%
Food Preparation & Serving Related	890	2,660	3,560	16.3%
Office and Administrative Support	640	2,260	2,900	13.2%
Sales and Related	640	1,850	2,500	11.4%
Education, Training & Library	780	730	1,510	6.9%
Transportation & Material Moving	370	800	1,170	5.3%
Construction & Extraction	660	490	1,150	5.3%
Building & Grounds Clean & Maintenance	510	630	1,140	5.2%
Management	450	540	990	4.5%
Protective Service	480	450	930	4.3%
Healthcare Practitioners & Technic.	480	420	900	4.1%
Installation, Maintenance & Repair	290	500	790	3.6%
Personal Care and Service	330	430	760	3.5%
Healthcare Support	440	230	670	3.1%
Business & Financial Operations	340	300	640	2.9%
Production	170	440	610	2.8%
Community & Social Services	210	160	360	1.6%
Computer and Mathematical	190	90	280	1.3%
Art, Design, Entertainment, Sports & Media	130	180	310	1.4%
Life, Physical & Social Science	90	110	210	1.0%
Architecture & Engineering	70	170	240	1.1%
Farming, Fishing & Forestry	10	130	140	0.6%
Legal	70	50	120	0.6%

Source: Hawai'i DLIR 2004

Need 22,000 New Workers a Year.

Even with moderate growth, the State will need roughly 22,000 new workers each year through 2012 (See Table 3), whereas only 12,000 youth will enter the Hawai'i workforce each year. Only about 8,000 of these openings will be new jobs. Most workers will be needed to replace around 13,600 expected retirements.

The Council has determined that Hawai'i needs to address the full tapestry of infrastructure that must support workforce development and economic health. This includes

tapping into populations that are marginally participating in the workforce; increasing the quality of schools; boosting family literacy; providing more parenting education; addressing child care needs; more jobs paying self-sustaining wages; financial literacy; reduction of substance abuse and its impact on learning and work performance; the cost of health care; transportation solutions; and adequate, affordable housing. Weaknesses in any one of these areas are barriers to increasing the size of the labor force and economic growth.

***Infrastructure to support workforce development and economic health***



In-migrants and Returning

Kama`aina. Particular barriers to attracting talent from out-of-state are high housing costs (\$485,000 median price) and a limited supply of relatively high wage jobs. One-third of the population are “working poor” whose low wages do not cover the actual cost of living.<sup>4</sup>

A major untapped source of potential labor for Hawai`i is its Kama`aina populations abroad. DBEDT is exploring ways to reverse the “brain drain” of the past. To do this, the department is working with a number of existing efforts that are trying to contact and inform Hawai`i’s expatriates of new opportunities in the state if they want to return. Ultimately DBEDT envisions creation of a universal web-based community where the professional, geographic, and high school networks of Hawai`i’s expatriates can be linked to each other and the State’s abundant employment and economic opportunities.

Low Civilian Labor Force (CLF) Participation. Only 60.4% of

Hawai`i’s civilian population, age 16 and older, is participating in the workforce, compared to the national average of 66.2%.

Analysis of the census shows that the non-participants are most likely to be:

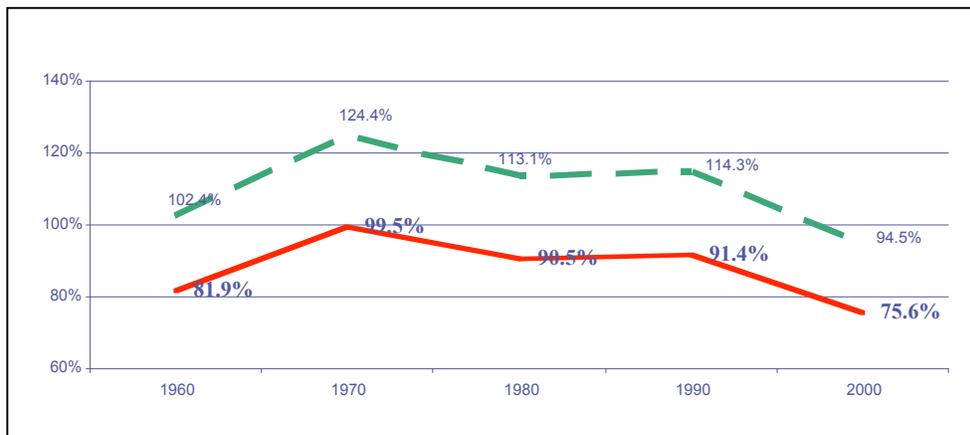
- Poorly educated
- Residing outside the urban core
- TANF clients
- Individuals with disabilities
- Ex-offenders
- Retirees
- Elderly

The *Funding Summary* insert shows that \$74 million of State and federal funds are dedicated to the workforce development of special populations –seriously disabled persons, welfare recipients, ex-offenders, immigrants, and unemployed people with multiple barriers. These are the groups that need to be better integrated into the workforce. Aside from education, the State funds for workforce development are for special populations, primarily as federal fund matches.

***Increase participation of underrepresented groups in the labor force.***

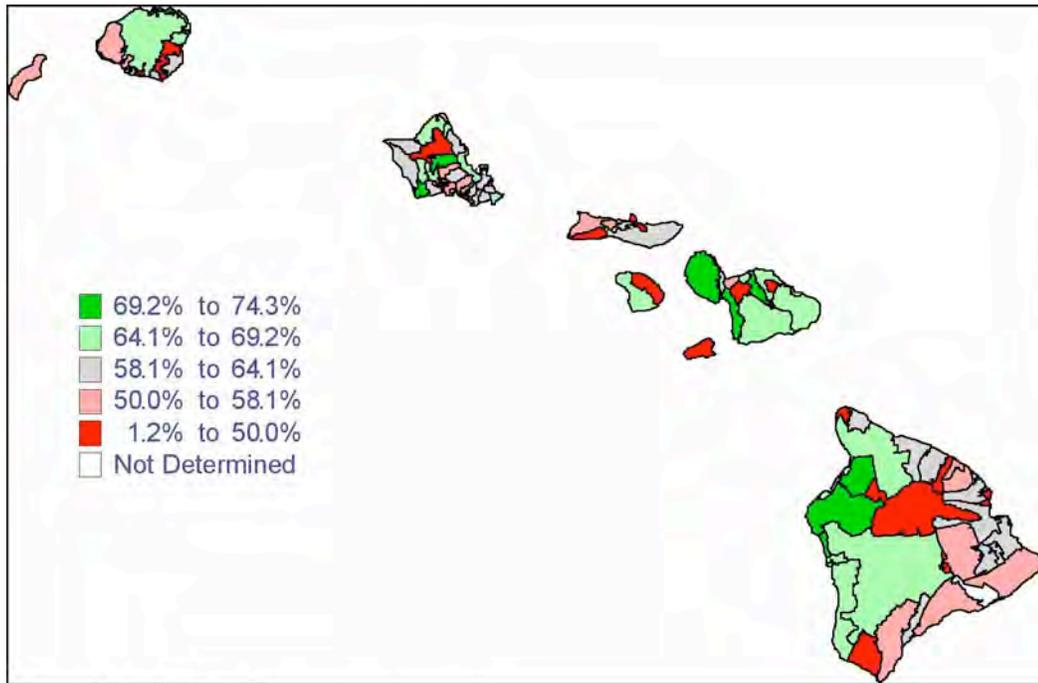
***WDC recommends support for a universal web-based community to attract expatriates***

**Table 4. Hawai`i’s Declining Per Capita Personal Income as Percent of U.S. Average**



Source: U.S. Census Bureau

**Table 5. Percent of Population Age 16 and Older Participating in the Hawai'i Workforce, 2000**



Hawaii = 60.4%

Source: U.S. Census Bureau, 2000 Census

Immigrants. The 2000 U.S. Census shows that 17.5% of the state population is foreign-born, which calls for attention to the multicultural workplace, acculturation in schools and neighborhoods, and English as a Second Language (ESL). In fact, the DOE's enrollment in ESL has grown from 300 to 14,000 in 15 years.

The DOE has charged its Community Schools for Adults to deliver instruction contextually; that is, within the context of how the skills being learned will be used. Immigrants learn English most effectively in the context of doing their jobs. "Vocational English as a Second Language" describes this contextual English learning as development of language skills (listening, speaking, reading, writing) needed for the job; learning how to request assistance, report

problems and progress, clarify instructions, confirm understanding, complete paperwork, and work cooperatively with co-workers, supervisors, and the public.

Rural Areas. The State's geographic areas with low CLF participation include the Big Island, East Lana'i, West Moloka'i, and the area around Wailuku and Kahului. West Kaua'i, Koloa, and mauka of Lihue have low CLF participation, as do Central O'ahu, Waipahu, and Kalihi.

Maui Community College administers federal earmark grants that provide distance learning and occupational skills training for youth and incumbent workers in rural areas. The grants also address workforce development barriers.

People With Disabilities.

Approximately 20% of the State's population, or an estimated 249,000 people, have disabilities. 149,000 of them are of working age. A 1994 Harris poll found that, nationally, 2/3 of all Americans with disabilities between the ages of 15 and 64 are not working.<sup>5</sup> The State Department of Labor & Industrial Relations has a grant to train One-Stop personnel about access, assistive technology, job accommodations, and appropriate services for their customers with disabilities.

[www.realchoices.org](http://www.realchoices.org) provides access to information and statewide services. It was designed to empower people of all ages and abilities to make self-determined choices.

TANF Clients. There are 10,269 Hawai'i TANF clients, mostly women, seeking work. The State Department of Human Services is publicizing the benefits to employers when they hire TANF clients, such as tax credits, customized training, and partial wages initially.

Delayed Retirees. Even though the baby boomer generation is reputed to be made up of workaholics, the people least likely to delay their retirement are those with government pension plans, such as teachers, social workers, and ex-military (who often work as technicians in production, installation, maintenance/repair).

The Senior Community Service Employment Program provides job training and placement for low income seniors. WDC plans to explore incentives to make senior careers attractive.

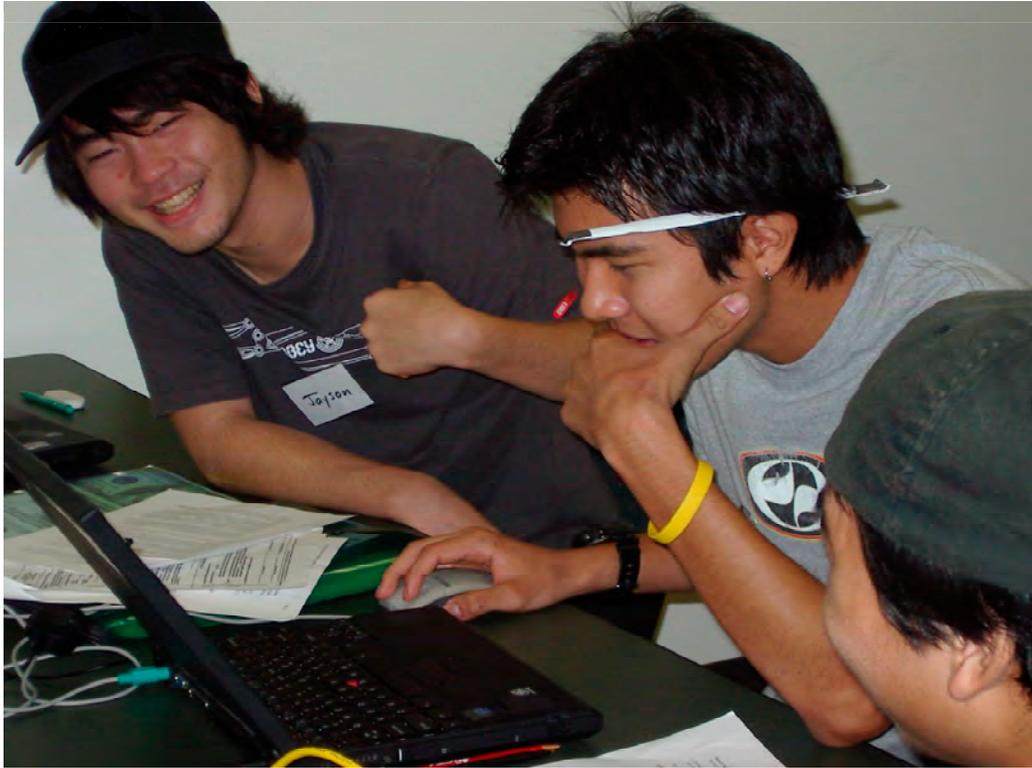
Ex-offenders. With 95% of the prisoners returning to the community, jobs and their stake in the community will contribute to reducing crime. The Corrections Education program works with them during incarceration, and a group of employers works with the furlough and parole programs to fill their job openings. However, a large percent of the prisoners who will be paroled do not receive job development services. To address this dilemma, the Department of Public Safety (DPS) seeks \$1.5 million to purchase these services for prisoners before they are paroled. The One-Stop Centers have the infrastructure in place to provide such job development.

Substance Abusers. According to surveys a decade ago, 9% of the State's adult population and 10% of the DOE's 6<sup>th</sup> to 12<sup>th</sup> graders needed treatment for alcohol and/or drugs. The use of "ice" has become an epidemic since the surveys, and employers complain that far too many applicants do not pass the drug tests to become employed.

The Lieutenant Governor's Hawai'i Drug Control Strategy emphasizes getting youth involved in their communities, which meshes with WDC's support for hands-on learning projects. The Strategy's call for wholesome activities during a youngster's free time should incorporate after-school tutorials and other DOE and Workforce Investment Act (WIA) services for at-risk youth that WDC supports.

*WDC supports DPS' budget request to purchase job development services for upcoming parolees.*





## II. Preparedness of the Workforce

When in-migrants with higher skills arrive to fill jobs, long-time Hawai'i residents are left in low end jobs unless they are prepared to compete. This section presents the "pipeline" from "ready to learn", to persistence to complete a high school diploma, through post-secondary education to gain today's necessary workforce training.

### Pre-school

A child who does not know colors, numbers and the alphabet as he or she enters Kindergarten is already behind and is unlikely ever to catch up. On the other hand, well-respected longitudinal studies found a significant return on investment (16%) for pre-school education as well as net public-dollar savings. Specifically, people who attended pre-school were less likely to repeat grades, require remedial education, be incarcerated for crimes, and become dependent on welfare.<sup>6</sup>

Two-thirds of young children have working parents. So their care is not only important to their development, but also to the reliability of their parents as employees. About 8,000 babies are born each year into low-income families in Hawai'i, and high quality care costs families over \$600 per child a month. Sixty percent of low-income 3- and 4-year-olds received a pre-school subsidy in 2001, primarily from TANF funds. The DOE serves about 2,000 children, ages 3-5, who are eligible for special education. The pre-school system only has the capacity to serve 2/3 of Hawai'i's 3- and 4-year-olds.<sup>7</sup>

Ways that the State can increase support for pre-Kindergarten include provision of pre-school scholarships for low-income families through expansion of pre-school capacity to accommodate all 3- and 4-year-olds.

### Public K-20 Education

Improving the quality of public K-12 education is still one of the top issues of community concern. National measures of student performance have significantly lagged behind community and employer expectations.

Despite some improvements, Hawai'i remains mediocre in preparing students for college. Hawai'i is close to the top states in the rate of high school graduation. Hawai'i is far behind, however, in actual student performance in skills critical to success in post-secondary education and the new jobs. Table 6 shows that eighth graders in Hawai'i are not "proficient" on national assessments in math, science, reading, and writing, and therefore unprepared for challenging high school courses. Compared with their peers in top states, low-income 8<sup>th</sup> graders perform extremely poorly on national assessments in math.

While these problems are addressed by the federal "No Child Left Behind", Hawai'i's new demanding high school requirements, and education's emphasis on contextual learning, WDC's specific recommendations for K-20 education include:

1. Increase business mentorships and internships.
2. Support balanced economic education that includes financial literacy and entrepreneurial readiness.
3. Explore a Work Readiness Certificate.

*WDC recommends that Hawai'i increase support for pre-Kindergarten early childhood education.*

**Table 6  
Measuring Up 2004**

Criteria	Top States	Hawai'i	A Decade Ago
	2004	2004	
18- to 24 –year-olds with a high school credential	94%	92%	94%
8 <sup>th</sup> graders scoring at or above “proficient” on the national assessment exam:			
in math	36%	17%	14%
in reading	39%	22%	19%
in science	42%	15%	15%
in writing	41%	18%	15%
Low-income 8 <sup>th</sup> graders scoring at or above “proficient” on the national assessment exam	23%	8%	7%
7 <sup>th</sup> to 12 <sup>th</sup> graders taught by teachers with a major in their subject **	81%	73%	58%

\*\* New indicator for 2004

Source: National Center for Public Policy and Higher Education, 2003

***WDC recommends that the Governor promote business participation in internships and mentorships, including the requirement that all businesses benefiting from tax incentives provide a minimum number of hours of formal mentorship to youth.***

***WDC recommends a balanced program of economic education, including financial literacy and entrepreneurial readiness.***

Business Internships and Mentorships. WDC supports business internships, mentorships, and projects for youth. Students who have hands-on experience in the workplace gain a better understanding of how their classroom education is applied in the “real world”. They are more likely to complete their education and integrate faster and better into jobs they like. Both the DOE and UH use six career pathways to guide career exploration and link teaching and learning activities.

WDC recommends that the Governor promote business participation in internships and mentorships, which are a major linchpin in this “contextual learning” strategy. To further this concept, WDC believes that all business tax incentives should carry the requirement that the benefiting business provide a minimum number of hours of formal mentorship to youth.

The DOE will establish a centralized school coordinator for work-based learning by 2006. DOE will collect materials and set up its web site to provide the best

information to teachers and businesses on available business mentorships and internships.

DOE will also establish standards of practice, including a guide for businesses on how to mentor, how to meet safety requirements, and how to qualify for DOE to cover workers’ compensation.

Economic Education. WDC believes that a balanced program of economic education includes how the economy works and the newly defined areas of financial literacy and entrepreneurial readiness.

Financial literacy is especially important as upcoming generations need to be educated on how to exercise diligence in managing their personal finances, use credit cards wisely, protect their privacy, and save and invest for their retirement.

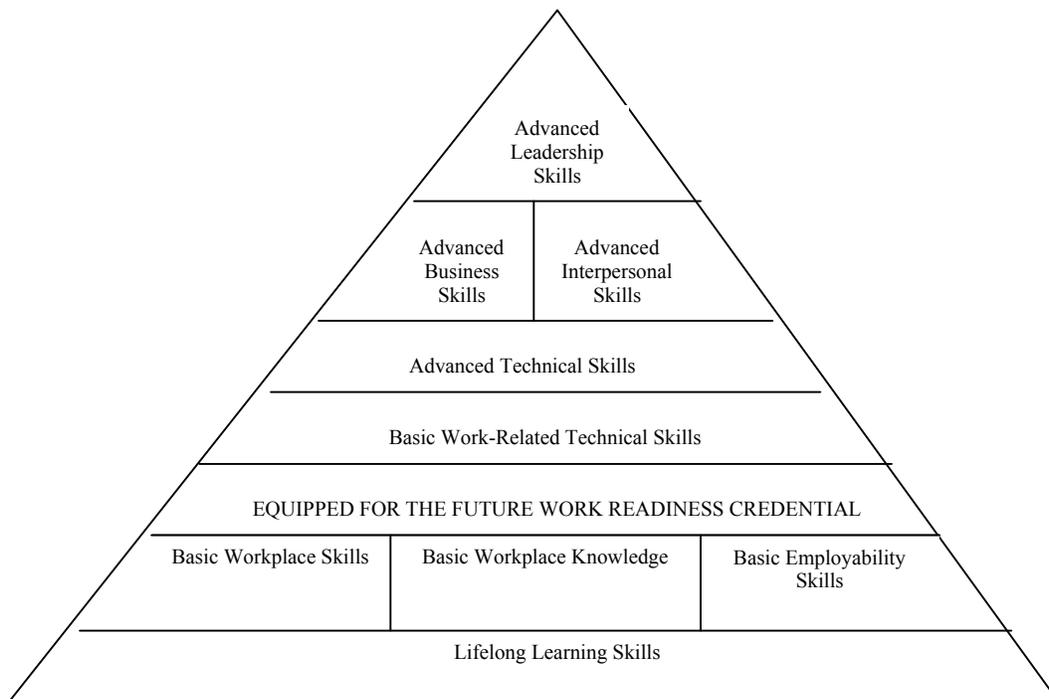
“Entrepreneurship education is distinguished from education in business management by its focus on three critical aspects of the entrepreneurial process:

- Opportunity recognition
- Marshalling of resources in the presence of risk
- Building a business venture

Business management focuses only on business ventures, leaving out most of what is unique to entrepreneurs. The education process can instill the value components of the first two at a relatively early age.” A model curriculum is the Kauffman Foundation’s “Making a Job” used in Iowa.<sup>8</sup>

Work Readiness Certificate. During 2005, the Department of Education, Honolulu Community College, and the State TANF program will be piloting a work readiness certificate based on the National Institute for Literacy’s “Equipped for the Future” (EFF), depicted below. See Appendix B for the EFF Work Readiness Profile. Once established, with guidelines in place, the certificate would be issued by DOE, UH, Adult Education, and WIA programs.

*WDC recommends exploration of a Work Readiness Certificate*



**HCR 112, (1)(C): status of work on the expansion and enlargement of the educational pipeline through the promotion of youth and adult participation in post-secondary degree or certificate programs**

	<u>Top States</u>	<u>HI</u>
High school freshmen enrolling within 4 years	52%	38%
18- to 24-year-olds enrolling in college	40%	36%
1 <sup>st</sup> year community college students returning 2 <sup>nd</sup> year	63%	44%
Students completing bachelor’s degree within 6 years	64%	46%

Source: National Center for Public Policy and Higher Education, “Measuring Up 2004”, 2003.

**Strategies to Expand Youth and Adult Participation in Post-Secondary Degree or Certificate Programs**

Compared with a decade ago, relatively fewer youth are completing high school within four years, and the likelihood of students enrolling in college by age 19 has dropped. These trends undercut state efforts to develop a competitive knowledge-based workforce. Table 7 shows that Hawai`i’s post-secondary participation and completion trail the top states.

***NGA Pathways Project***

NGA Pathways Project. Since 2003, Hawai`i has participated in the National Governors’ Association (NGA) Pathways to Advancement Academy. Its purpose is to create a more coherent network of post-secondary educational opportunities that align with the State’s economic development and workforce preparation goals, and contribute to the diversification of Hawai`i’s economy, while preserving the environmental and cultural integrity of Hawai`i. The grant ends June 2005.

This section’s recommendations and action plans were shaped by the Hawai`i NGA Pathways project.

<b>NGA Pathways Project Goals</b>
1. Increase the percentage of Hawai`i residents employed in family economic self-sufficient “living-wage” jobs (those paying \$40,000 or more per year), particularly in knowledge-based sectors.
2. Reduce the gaps between anticipated workforce demand and the supply of individuals with post-secondary degrees and certificates.
3. Create and increase the opportunities for participation in post-secondary education, training, and employment by people with employment barriers.
4. Implement policies and practices designed to increase the number of incumbent workers involved in post-secondary education and training by developing support for companies that encourage such opportunities for their employees, including non-management workers.
5. Increase the number of adults graduating from Hawai`i institutions with post-secondary credentials by 25% by 2010.

### Feed More People into the Post-Secondary Education Pipeline

With most jobs in the future likely to require two or more years of technical training after high school, increasing the number of people in the educational pipeline beyond high school is critical to the economy and family self-sufficiency.

Reducing the need for remediation is one goal. The DOE and the Community Colleges are developing closer alignment between the high school curricula and college entry level requirements and expectations. The standards for the DOE Class of 2010 should reduce remediation upon entering the UH.

The DOE and the Community Colleges have already established programs and experiments to give dual credit for high school and community college courses. These arrangements make it comfortable and worthwhile for recent high school graduates to continue their college studies.

In 2004, the Farrington and Moanalua Community Schools for Adults started to proactively counsel their GED recipients to continue on to post-secondary education.

Other remediation points are WIA programs. WDC is proposing to local workforce investment boards that a certain per cent of WIA completers be steered to post-secondary education.

Another goal is creating sufficient post-secondary capacity to meet the demand for courses in technical fields. The NGA Pathways project will make recommendations about capacity by June 2005.

Minimum Support Services to Post-Secondary Students are needed to encourage and assist more Hawai'i adult learners, including incumbent workers, to successfully complete degrees and certificates so they may succeed in good jobs.

Financial aid for more post-secondary education participation is needed. Governor Linda Lingle signed two 2004 legislative bills that provide for scholarships. The UH is seeking a \$20 million appropriation from the 2005 legislature to establish a revolving fund for financial aid. Students would receive financial aid based on needs only and would be able to claim a tax credit for two years of tuition and take advantage of federal Pell grants. They have not been able to claim these benefits under the current tuition waiver form of aid.

The NGA Pathways project's recommendations and plans are expected by June 2005 regarding:

1. Availability of child care for students.
2. Easier access to courses through distance learning.

To Keep Education Up-to-Date, in 1999, the Millennium Workforce Task Force recommended that:

1. Post-secondary programs increase cross-discipline training across and within majors.
2. Post-secondary programs keep updated on skills. Committees of business people are the most direct source to advise university and college departments on required skills in existing industries.

### *Post-secondary Pipeline*

***WDC recommends funding of the University of Hawai'i (UH) revolving fund for need-based student financial aid.***



### ***Keep education up-to-date***

*Incumbent Workers*

Customized Education and Training to Incumbent Workers.

It is essential to keep providing short-term, accessible courses for incumbents' career advancement and upgrade of obsolete skills.

Seventy-five (75%) of the next ten years' workforce is already working, which spotlights incumbent workers and the need to encourage older workers to keep their skills current and remain in the labor force longer. Labor shortages mean that fewer workers work harder in jobs that are less specialized, companies reorganize the work to improve productivity, and/or people rapidly advance into mid- and upper-level positions. Job sharing allows part-time employees to contribute to the workplace. Telecommuting meets some workers' and employers' needs and helps to ease community traffic problems. Technology is infused in all workplaces yet changes so rapidly that one-half of what the new technology graduate learns becomes obsolete within a few years.

The UH Community Colleges have just directed funds to support a workforce position in the Chancellor's Office to develop customized training that is responsive to employers' needs. The position will implement the process recommended by the 1999 Millennium Task Force:

1. Use employers' specified desired learning outcomes, including skills inventories to update curriculum and workplace training needs; tailor available courses; broker in short-term training if they cannot be taught by local providers.
2. Arrange training logistics to deliver training in a "just-in-time" mode under the conditions

(time, place, etc.) that employers indicate are maximally useful.

3. Increase industry awareness of education's efforts to improve workforce development training.

Training needs to target employees and managers in small businesses. The Circuit Rider model is especially suited for Hawai'i's geographically isolated areas and for small businesses in general. Small businesses need to solve their personnel problems due to low or non-existent training budgets, inability to pay competitive wages, and lack of attention to their employees' roles in the success of the business.

The employer-financed Employment and Training Fund (ETF) needs to be re-energized and made more accessible for employers' use. WDC will convene WDD, DBEDT, and the economic development boards to a review and possibly re-set priorities for the use of training grants; and b) re-examine regulations, criteria, application procedures, and the required employer match for ETF grants (cash versus in-kind match).

Career Planning. Underpinning all the activities and recommendations for improving education and training is the need for a universally accessible, comprehensive data base for lifelong career planning.

There are several independent systems, each with at least one distinctive feature, that assist one or more target groups with career planning. They need to be coordinated, enhanced, and free to all Hawai'i's people to plan their lifelong learning and careers. New Jersey, New York, Minnesota, Nevada, and Indiana have such models.

### III. Determining Future Labor Demands

#### Identification of Industries

The Council's strategy for Hawai'i's economic health is to prepare the workforce to support both mature and emerging industries. For identification of important industry clusters in the state, the Council relies on the extensive community discussion that has taken place during 2004 about promising industries, as well as the needs of established industries.

WDC recommends that the State conduct a sophisticated supply/demand analysis of the target industries identified through the county-based Comprehensive Economic Development Strategy (CEDS) process, and forecast implications of various future supply/demand scenarios:

- **Agriculture**
- **Healthcare/Life Sciences**
- **Technology**
- **Tourism**
- **Film & Digital Media**
- **Energy**

From the study's conclusions, educators can decide the most needed education to support the future occupations and skills in the State. Table 8 presents the recommendations for target industries from each of the local community voices. Some of these industries represent a minute portion of today's state economy and are championed for their potential to create high skill, high paying jobs in our state. All local workforce investment boards have decided to concentrate their training dollars and workforce development efforts on the occupations in the priority industry clusters they have identified. See Appendix C for references to the CEDS reports, the four county Local Workforce Investment Boards' studies, and pertinent web sites.

WDC recommends that the ongoing system for identification and verification of industry clusters should involve community discussion, forums, focus groups, formal studies, and interviews of employers and their intermediary associations. This process would specifically identify new businesses in growing industries and growing businesses not necessarily in identified clusters.

#### Labor Demand: Identification of Occupations and Skill Needs

WDC explored the development of matrices for selected industries, showing projected occupations and skill needs. WDC found that fine work has already been started. The Labor Market Information researchers at both the federal and state levels produce very useful information in readable format. They identify occupations in industries, the required educational level, job projections, and the average wage. See Appendix C for pertinent web sites and a sample occupational outlook for the Biotechnology industry.

WDC strongly endorses State participation in the Census Bureau's Local Employment Data (LED) program. At modest or no cost to the State, LED represents a quantum leap in the information available to plan economic, labor force, education and infrastructure decisions.

WDC also seeks improvements to local data collection, each one carrying start-up and maintenance costs. Specifically, WDC recommends that the DLIR, DBEDT, the counties, and Enterprise Honolulu prepare implementation plans and budget requests for the State to:

**HCR 112: status of work on (1)(A) the identification and development of industry clusters in order to determine their economic and workforce potential and the manner in which the industries can be better served;**

**(1)(B) the development of labor demand and supply matrices for determining future labor demands under various economic scenarios and correlating anticipated labor supply with forecasted industry demands.**

**HCR 112: recommendations (3) as to methods to better facilitate the gathering and compilation of relevant and necessary data; and (4) for connecting or making compatible the compiled data and other forms of data resulting from economic, workforce, or educational research.**

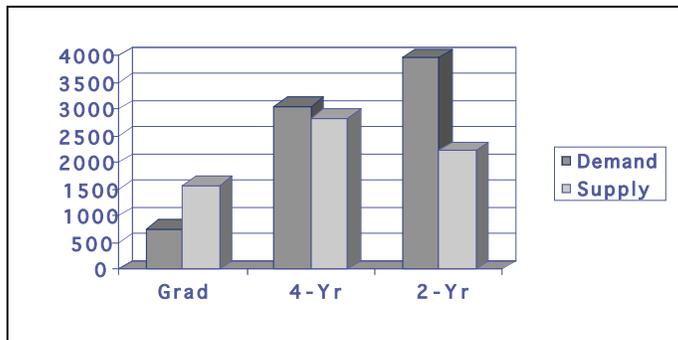
*WDC recommends that the State conduct a sophisticated supply/demand analysis of the targeted industry clusters identified through the CEDS process.*

*WDC recommends that the Governor endorse expanded local workforce-related data collection and research and State participation in the Census Bureau's Local Employment Data (LED) program.*

**Table 8. Community Recommendations for Targeted Industries in Hawai'i**

Sector/Industry	DBEDT	Enterprise Honolulu	O'ahu WIB	O'ahu CEDS	Hawai'i WIB	Hawai'i CEDS	Maui WIB	Maui CEDS	Kaua'i WIB	Kaua'i CEDS
<b>Agriculture</b>	X	X	X	X	E.HI	X	X	X	X	Food/Ag
<b>Healthcare/Medical/ Life Sciences</b>	X	X	X	X	X	Health & Wellness	X		X	Health & Wellness
<b>Technology</b>	X	X	Env. Tech & IT	Info Comm	E.HI-Astron	Science & Hi Tech		X	Env. Tech & Ag	Hi Tech
<b>Tourism</b>	X				X + E.HI-Cruises	Heritage Tourism & Cruises	X	Health & Sports Tourism	X	
<b>Education</b>	X		X		X	X				
<b>Film &amp; Digital Media</b>	X	X		X				X		
Construction			X		X				X	
Retail Trade	X		X		E.HI-Big Box					
Management of Companies & Enterprises		Business Services	X							
Finance & Insurance		X	X							
Real Estate Rental/Leasing			X		X					
Other Services (except Public Administration)			X		Architecture					
Social Services			X		X					
Energy						X				Renewable
Administrative & Support and Waste Management & Remediation Services			X							
Arts & Culture										X
Defense & Dual Use		X								
Information			X							
Professional, Scientific and Technical Services			X							
Public Administration			X							
Recreation										X
Ship Building & Repair			X							
Transportation & Warehousing			X							
Utilities			X							
Wholesale Trade			X							

**Table 9. Job/Education Demand Supply Gap**



Source: U.S. Census Bureau, 2000 Census; 5% PUMS Files

1. Provide better occupation projections for locally emerging industry clusters under different possible growth scenarios.
2. Identify, by industry and occupation, the distribution of workers who earn half the average, the average, and twice the average wage.
3. Conduct periodic research to determine if the targeted industries, as they expand, create a significant number of jobs at a living wage or above.

The Office of the State Director for Career and Technical Education is exploring Cal-PASS (used by a growing number of California high schools and community colleges) as a means of obtaining better connecting data on DOE and UH outcomes.

**Labor Supply: Match Projected Occupations to Existing Post-Secondary Programs**

The DLIR’s Research & Statistics Office and the UH produced a number of cross-cutting tables for the NGA Project’s analysis. In an attempt to pinpoint labor supply, the project examined a table that tried to count the labor supply from all educational institutions by education needed.” However, the information does not accurately

identify labor supply. For instance, did the person who obtained an associate degree in Field X go into that field in Hawai’i? Was that person already working in Field X and going to school part-time?

The most useful supply information is shown in Table 9, where the types of degrees earned are aggregated. This tells us, quite simply, that Hawai’i needs to pay the most post-secondary attention to the Community Colleges, which award associate degrees.

Michael Rota, Associate Vice-President for Academic Affairs at the University of Hawai’i (UH), reports that the Hawai’i community colleges participate in a number of national organizations and training consortia with access to state-of-the-art curricula.

These resources have been used in the past to redesign and establish programs and can provide access to training programs in almost all specialties for existing and known emerging industries. For those programs that are not here now, the institutions can tap colleagues and buy off-the-shelf curricula and materials.

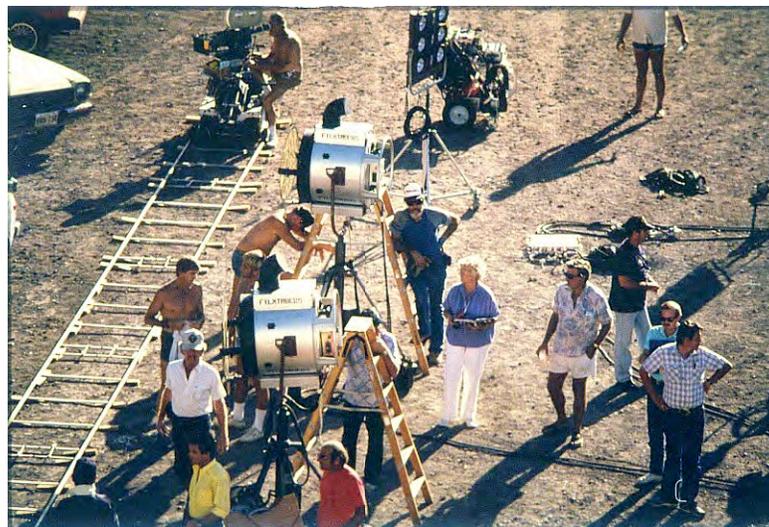
The important issues are program capacity, keeping up with industry standards, and responsiveness to customized training approaches.

*Rely on Community Colleges*

**HCR 112(2): timeline as to when and the manner in which (A) Action is being taken on the aforementioned initiatives; and (B) Further information on such progress will be made available.**

**2005 Timeline**

January	Start statewide promulgation and tracking of NGA Pathways Project and WDC plans
January-March	Consider best practices for organizing workforce development and delivering services
April	Explore revisions to Employment & Training Fund procedures and policies
May	Explore incentives to make senior careers attractive
June	NGA Pathways Project, with emphasis on post-secondary education pipeline, ends. Status of implementation plan will be published.
July	Revise WIA State plan and policies
September	DLIR submits data collection and research plans
October	Submit WIA Annual Plan on performance measures to US Department of Labor
December	Publish <i>Funding Summary</i> and update on educational and data collection improvements



**STATE OF HAWAII  
WORKFORCE DEVELOPMENT STRATEGIC PLAN**

**Vision:**        **A globally competitive and skilled workforce that promotes and nurtures a diverse and prosperous economy and preserves the special quality of life in Hawai`i.**

**Mission:**      **Develop a skilled workforce that meets the needs of business and industry, enhances workplace productivity, and increases opportunities for high wage employment and entrepreneurship.**

**Goal I:**        **Align the economic, education, and employment communities into a comprehensive and coordinated network.**

Objective A:        Coordinate resources effectively and efficiently.

Objective B:        Provide comprehensive information to implementers of workforce development policies.

**Goal II:**       **Provide all people the opportunity to acquire and maintain skills, attitudes and behaviors necessary to be a part of the competitive workforce and to be self-sufficient.**

Objective A:        Improve basic skills and qualifications of all job seekers and workers.

Objective B:        Increase participation of targeted underrepresented populations in education, training, employment, and career advancement.

Objective C:        Increase qualified labor supply for targeted industries for a diversified statewide economy.

**Goal III:**      **Improve the incentives and commitment for businesses to increase innovation and productivity of their work places.**

Objective A:        Promote incentives for employers who develop competitive workforce skills and maximize innovations of workplace cultures.

Objective B:        Recognize business' workforce models that achieve successful business outcomes.



Appendix A

# HOUSE CONCURRENT RESOLUTION 112, H.D. 1

REQUESTING THE DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT AND TOURISM AND THE WORKFORCE DEVELOPMENT COUNCIL TO REPORT TO THE LEGISLATURE REGARDING THE IDENTIFICATION AND DEVELOPMENT OF LABOR SUPPLY AND DEMAND MATRICES, AND THE EXPANSION OF THE EDUCATIONAL PIPELINE SUBSEQUENT TO THE ENACTMENT OF ACT 148, SESSIONS LAWS OF HAWAII 2003.

WHEREAS, the economic future of Hawaii is dependent upon the quality of its workforce in that the economy needs a skilled workforce to grow and prosper; and

WHEREAS, the State has funded multiple workforce development programs in order to develop high-skilled workers and, in turn, higher paying jobs; and

WHEREAS, in Hawaii the need still exists to develop workforce development pipelines and processes; and

WHEREAS, pursuant to Act 148, Session Laws of Hawaii 2003, codified in Section 201-16, Hawaii Revised Statutes (HRS), the Department of Business, Economic Development, and Tourism is required to submit an annual report to the Legislature detailing its efforts to increase the number of high-skilled jobs in targeted industry clusters, in concert with the efforts of the Workforce Development Council; and

WHEREAS, in January 2004, the Department of Business, Economic Development, and Tourism submitted its first annual report recounting its collaborative efforts with the Workforce Development Council to identify industry clusters, establish labor demand and supply matrices to assist in planning for workforce and educational needs, and increase the number of individuals pursuing post-secondary education degree and certificate programs; and

WHEREAS, the identification or development of industry clusters entails the practice of grouping organizations in related industries that share markets, labor needs, and similar infrastructures in order to facilitate opportunities for the collaboration of efforts on common development issues within clusters; and

WHEREAS, the development of labor supply and demand matrices requires the establishment of matrices to cross-reference the industries in Hawaii's economy with the occupation or skill sets required within those industries for forecasting labor demands by industry and occupation and to associate labor supply with demand; and

WHEREAS, increases in the educational pipeline requires the promotion and encouragement of the continued educational pursuits of youth and adults beyond the completion of high school through the acquisition of post-secondary degrees or certificates; and

WHEREAS, Section 201-16, HRS, requires an annual report which generally details efforts to increase the number of high-skilled jobs in targeted industry clusters; however, based upon the initiatives outlined by the Department of Business, Economic Development and Tourism, the need has arisen for the receipt of specific information addressing actions to target industry clusters, develop labor supply and demand matrices, and increase the educational pipeline; now, therefore,

BE IT RESOLVED by the House of Representatives of the Twenty-Second Legislature of the State of Hawaii, Regular Session of 2004, the Senate concurring, that the Department of Business, Economic Development, and Tourism and the Workforce Development Council are requested to submit a report to the Legislature regarding actions which have been undertaken subsequent to the enactment of Act 148, Session Laws of Hawaii 2003; and

BE IT FURTHER RESOLVED that the report shall focus on the following areas:

(1) The status of work on:

(A) The identification and development of industry clusters in order to determine their economic and workforce potential

and the manner in which the industries can be better served;

(B) The development of labor demand and supply matrices for determining future labor demands under various economic scenarios and correlating anticipated labor supply with forecasted industry demands; and

(C) The expansion and enlargement of the educational pipeline through the promotion of youth and adult participation in post-secondary degree or certificate programs;

(2) A timeline as to when and the manner in which:

(A) Action is being taken on the aforementioned initiatives; and

(B) Further information on such progress will be made available;

(3) Recommendations as to methods to better facilitate the gathering and compilation of relevant and necessary data; and

(4) Recommendations for connecting or making compatible the compiled data and other forms of data resulting from economic, workforce, or educational research; and

BE IT FURTHER RESOLVED that the Department of Business, Economic Development, and Tourism and the Workforce Development Council shall submit a report of their findings and recommendations to the Legislature at least twenty days prior to the convening of the Regular Session of 2005; and

BE IT FURTHER RESOLVED that certified copies of this Concurrent Resolution be transmitted to the Director of Business, Economic Development, and Tourism and the Chairperson of the Workforce Development Council.



## Appendix B -- THE EFF WORK READINESS PROFILE

### What New Workers in Entry Level Jobs Need to Be Able to Do

New workers need to be able to

Use these EFF Skills .....well enough to successfully carry out these critical entry level tasks\*:

Communication Skills	Acquire/Use Info	Use Systems	Work with Others	Responsibility	Allocate Resources
<ul style="list-style-type: none"> <li>• Speak So Others Can Understand</li> <li>• Listen Actively</li> <li>• Read With Understanding</li> <li>• Observe Critically</li> </ul> <p><b>Interpersonal Skills</b></p> <ul style="list-style-type: none"> <li>• Cooperate With Others</li> <li>• Resolve Conflict and Negotiate</li> </ul> <p><b>Decision Making Skills</b></p> <ul style="list-style-type: none"> <li>• Use Math to Solve Problems and Communicate</li> <li>• Solve Problems and Make Decisions</li> </ul> <p><b>Lifelong Learning Skills</b></p> <ul style="list-style-type: none"> <li>• Take Responsibility for Learning</li> <li>• Use Information and Communications Technology</li> </ul> <p>Equipped for the Future is an initiative of the National Institute for Literacy.</p> <p>DRAFT 12/05/03</p>	<ul style="list-style-type: none"> <li>• Acquire, use, and share information accurately and in a timely manner in order to:               <ul style="list-style-type: none"> <li>- Get work done.</li> <li>- Identify appropriate procedures.</li> <li>- Respond to requests from internal and external customers.</li> </ul> </li> <li>• Read and understand information presented in written form well enough to get the job done.</li> <li>• Communicate in spoken English well enough to get the job done.</li> <li>• Ask for clarification or help from supervisor or appropriate others when needed.</li> </ul> <p><b>Use Technology</b></p> <ul style="list-style-type: none"> <li>• Learn how to use appropriate computer-based technology to get the job done most efficiently.</li> <li>• Be able to use a tele-phone, pager, radio, or other device to handle/process communication.</li> <li>• Make sure that all equipment is in safe working order.</li> <li>• Use equipment properly to minimize damage to equipment or injury to oneself or others.</li> </ul>	<p>UNDERSTAND SYSTEMS</p> <ul style="list-style-type: none"> <li>• Understand how one's own performance can impact the success of the organization.</li> <li>• Comply with organizational policies/procedures consistently.</li> <li>• Pay attention to company guidelines regarding:               <ul style="list-style-type: none"> <li>- Personal and professional interactions.</li> <li>- Appropriate dress.</li> <li>- Health and safety.</li> </ul> </li> <li>• Follow established procedures for handling urgent situations or emergencies.</li> <li>• Keep informed about quality and health standards set by external sources, including unions, OSHA, and other national and international organizations.</li> <li>• Go to the appropriate person/source when approval is needed for work-related activities.</li> </ul> <p>MONITOR AND CORRECT PERFORMANCE</p> <ul style="list-style-type: none"> <li>• Monitor own work quality.</li> <li>• Accept and use constructive criticism for continuous improvement of own job performance.</li> <li>• Keep track of changes within the organization and adapt to them.</li> </ul>	<p>DIVERSITY</p> <ul style="list-style-type: none"> <li>• Work as part of a team to develop and achieve mutual goals/ objectives.</li> <li>• Develop and maintain good working relations with coworkers, super-visors, and others throughout the organiza-tion, regardless of background or position:               <ul style="list-style-type: none"> <li>- Be respectful and open to the thoughts, opinions, and contributions of others.</li> <li>- Avoid use of language or comments that stereotype others.</li> </ul> </li> </ul> <p>NEGOTIATE</p> <ul style="list-style-type: none"> <li>• Work through conflict constructively.</li> </ul> <p>SERVE CLIENTS</p> <ul style="list-style-type: none"> <li>• Address customer comments, questions, concerns and objections with direct, accurate, and timely responses.</li> <li>• Verify customer identification to validate forms, provide services, or carry our procedures.</li> </ul> <p><b>Know How to Learn</b></p> <ul style="list-style-type: none"> <li>• Accept help from supervisors and coworkers.</li> <li>• Learn new/additional skills related to your job.</li> <li>• Learn about the products/services of the organization.</li> </ul>	<ul style="list-style-type: none"> <li>• Demonstrate willingness to work.</li> <li>• Take responsibility for completing one's own work assignments:               <ul style="list-style-type: none"> <li>- Accurately.</li> <li>- On time.</li> <li>- To a high standard of quality.</li> <li>- Even when the work is physically or mentally challenging.</li> <li>- As efficiently as possible, to minimize costs, rework, and production time.</li> </ul> </li> <li>• Show initiative in carrying out work assignments.</li> </ul> <p><b>Integrity</b></p> <ul style="list-style-type: none"> <li>• Demonstrate integrity.</li> <li>• Maintain confidentiality, as appropriate, about matters encountered in the work setting.</li> </ul> <p><b>Self Management</b></p> <ul style="list-style-type: none"> <li>• Display responsible behaviors at work:               <ul style="list-style-type: none"> <li>- Avoid absenteeism.</li> <li>- Demonstrate promptness.</li> <li>- Maintain appropriate grooming and hygiene.</li> <li>- Do not attend to personal business when on the job, except in emergencies.</li> <li>- Manage stressful situations effectively.</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• Use basic math well enough to get the job done.</li> <li>• Manage time effectively to:               <ul style="list-style-type: none"> <li>- Get the work done on schedule.</li> <li>- Prioritize tasks.</li> <li>- Make sure that urgent tasks are completed on time.</li> </ul> </li> <li>• Make sure that materials, tools, and equipment are available to do the job effectively.</li> </ul> <p><b>Solve Problems</b></p> <ul style="list-style-type: none"> <li>• Cope with a work situation or tasks that change frequently:               <ul style="list-style-type: none"> <li>- Demonstrate flexibility.</li> <li>- Accept new or changed work responsibilities with a positive attitude.</li> <li>- Adjust to unexpected problems and situations by seeking advice from a supervisor or appropriate others.</li> </ul> </li> <li>• Identify actual or potential problems related to one's own work:               <ul style="list-style-type: none"> <li>- Report them in a timely manner, according to company policy.</li> <li>- Help to fix them.</li> </ul> </li> </ul> <p>*Tasks are organized according to SCANS categories.</p>

## Appendix C

### References for Identification of Industries, Occupations & Skills

#### Summaries of Community Studies to Determine Workforce Priorities

**Comprehensive Economic Development Strategy (CEDS)** is a collaborative effort between the State of Hawai'i, Kaua'i Economic Development Board, Maui Economic Development Board, Hawai'i Island Economic Development Board, Enterprise Honolulu, the Economic Development Alliance of Hawai'i, and the county economic development agencies. There are two inter-related parts of this project: 1) development of the CEDS and 2) identification of cluster industries and infrastructure projects to support these industries over a five-year time period. A CEDS is required as a prerequisite for certain types of EDA funding. See Table 8 for each county's industry clusters as identified in the CEDS process.

Key economic drivers for the State as a whole were identified. Tourism remains the dominant economic engine with one out of every three jobs directly or indirectly related to the tourism industry. Opportunities for diversification exist in the expansion of niches such as agricultural tourism, cultural tourism, educational tourism, health and wellness, tourism, eco-tourism and techno-tourism.

Defense, agriculture, technology, life science/biotechnology, energy/renewable technologies, astronomy and space science, arts, film and entertainment, ocean industries, and forestry are other key areas of economic activity.

**O'ahu Workforce Investment Board** contracted a two-phase study in 2004. Sixteen "super sectors" were identified as key industries on O'ahu; these are shown in Table 8. Of these 16 industries, four -- construction, insurance agencies and brokerages, professional and technical services, and ambulatory health care services -- were targeted for employer surveys. From the responses of 225 employers across these four industries, the common challenges and obstacles in recruitment, training and retention include:

- Difficulty in recruiting qualified employees;
- Poor employee work habits and attitudes;
- Low technical skill level of new employees; and
- Poor basic skills of new employees.

The training that is most needed by their employees includes:

- Advanced technical skills;
- Computer use skills;
- Basic technical skills;
- Results orientation; and
- Customer focus.

**Hawai'i Workforce Investment Board's** Planning Committee, in 2004, conducted an island-wide survey that identified emerging industries in the county for the next five years as:

- Health/Social Services
- Construction
- Education
- Hospitality

The board, with the Mayor's Office and the Big Island Workforce Connection, co-sponsored a forum in October 2004 to provide information to develop a Workforce Development Action Plan. The forum attracted almost 50 business representatives from Kona and 20 from Waikoloa and addressed problematic issues facing employers and employees alike, such as:

- Affordable housing;
- Availability of transportation for employees; and
- Inadequate basic occupational skills of potential employees.

**Maui County Workforce Investment Board** contracted MGT of America, which reported in May 2003. Employers said there were high operating costs and too much regulation. Employers also identified these lacks in job seekers and some workers:

- Qualified individuals for mid-management positions
- Work ethic
- Commitment to work
- Respect for authority
- Flexibility
- Communication skills
- Problem-solving skills

Employee concerns focused on:

- Lack of affordable housing
- Poor public transportation
- Lack of affordable child care
- Not enough jobs
- Low levels of education
- Substance abuse
- Teen pregnancy
- Lack of mental health assistance

**Kaua'i Workforce Investment Board**, in 2004, conducted focus groups in the tourism, healthcare/human services, construction, and environment technology/agriculture industries. Employers in these industries reported that:

- The skills most in demand are soft skills, middle management, and leadership skills.
- Critical skill gaps are SCANS, new ways of doing work, multi-taking, and computer skills.
- Preferred credentials are internships, technical/specialized certification.
- The most useful training programs are online training, peer training, and on-the-job training.

**Chamber of Commerce's Project JOBS**, in March 2004, reported the results of its employer interviews. Fifty five percent of those interviewed reported difficulty in recruiting new employees. They faced shortages of technically skilled workers; i.e., civil engineers and surveyors, nurses, medical and dental technicians, physicians, scientists. They said too many applicants lacked proper work ethics and attitudes.

#### **Web Sites Pertinent to Workforce Planning**

[www.stats.bls.gov/](http://www.stats.bls.gov/)

[www.hiwi.org](http://www.hiwi.org)

[www2.hawaii.gov/DBEDT/index.ctm](http://www2.hawaii.gov/DBEDT/index.ctm)

[www.enterprishonolulu.com](http://www.enterprishonolulu.com)

# President's High Growth Job Training Initiative

## Sample Occupational Outlook

### Biotechnology

In emerging industries such as biotechnology, occupations are often difficult to classify. The tables below show the expected growth in occupations that are included in the biotechnology industry.

Biotech Related Occupations and their Projected 10 Year Growth						
Biotech-Related Occupations	Number Employed 2002 (000's)	Number employed 2012 (000's)	Numeric Change (000's)	Change %	2002 Median Annual Earnings	Postsecondary Education & Training
Medical scientists, except epidemiologists	58	73	16	26.9	56,980	Doctor's degree
Biomedical engineers	8	10	2	26.1	60,410	Bachelor's degree
Environmental scientists and specialists, including health	65	80	15	23.7	47,600	Master's degree
Biological scientists, all other	27	33	6	22.3	53,300	Bachelor's degree
Biological technicians	48	57	9	19.4	32,710	Associate's degree
Medical and clinical laboratory technicians	147	176	29	19.4	29,040	Associate degree
Chemist	84	95	11	12.7	52,890	Bachelor's degree
Agricultural & food science technicians	20	22	2	9.3	28,580	Associate's degree
Chemical technicians	69	72	3	4.7	37,430	Bachelor's degree

Employment of Wage & Salary Workers in Pharmaceutical & Medicine Manufacturing by Occupation, 2002 (000's)			
Occupation Title		Total Employment	% of Total
All occupations		293	100
Chemists & materials scientists		15	37.5
Packaging & filling machine operators & tenders		20	6.9
Business operations specialists		14	4.7
Secretaries & administrative assistants		10	3.5
First-line supervisors/managers of production & operating workers		9	3.1
Chemical equipment operators & tenders		9	3.1
Computer specialists		9	3.1
Medical scientists		9	3
Inspectors, testers, sorters, samplers, & weighters		9	2.9
Laborers and freight, stock, & material movers, hand		8	2.7

This is not a comprehensive list of occupations. Please refer to the U.S. Bureau of Labor Statistics employment projections Web page at [www.stats.bls.gov/](http://www.stats.bls.gov/) for more biotechnology occupational information.

## Abbreviations

CEDS	Comprehensive Economic Development Strategy
CLF	Civilian Labor Force
DBEDT	Department of Business, Economic Development & Tourism
DHS	Department of Human Services
DLIR	Department of Labor & Industrial Relations
DOE	Department of Education
DPS	Department of Public Safety
EFF	Equipped for the Future
ESL	English as a Second Language
ETF	Employment & Training Fund
LED	Local Employment Data
NGA	National Governors' Association
TANF	Temporary Assistance for Needy Families
UH	University of Hawai'i
USDOE	U.S. Department of Education
USDOL	U.S. Department of Labor
WDC	Workforce Development Council
WIA	Workforce Investment Act

## End Notes

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<sup>1</sup> See Appendix A for HCR 112. Act 148-2003 amended the Workforce Development Council's (WDC) enabling statute to call for a comprehensive workforce plan with strategic goals and measurable outcomes to: 1) project demand, training and placement of skilled workers for the next ten years; 2) inform private sector employers about the various sources of workforce assistance; 3) facilitate access to workforce resources for employers and employees; 4) improve opportunities for individuals to learn and develop new skills; 5) facilitate the Department of Education's development of curricula to prepare students for employment; 6) recommend improvement to existing programs, elimination of ineffective programs, and creation of new programs to improve workforce development; 7) identify required resources, obstacles and best practices to implement the comprehensive state strategic plan; and 8) recommend a detailed budget for the comprehensive state workforce plan with justification for each expenditure.

<sup>2</sup> Stern, Sol, "The Pending Teacher Shortage", *Organization for Quality Education*, September 2000.

<sup>3</sup> <http://www.ed.gov/programs/transitionteach/index.html>

<sup>4</sup> One in ten Hawai'i residents (10.7%) lives at or below the federal poverty guidelines. Using the federal poverty level seriously underreports poverty, as it costs two to three times that level to achieve self-sufficiency in this state. To see how much is needed for families in Hawai'i to adequately meet its basic needs without public or private assistance, see Hawai'i's self-sufficiency report at [www.sixstrategies.org/states/states.cfm](http://www.sixstrategies.org/states/states.cfm).

<sup>5</sup> Disability & Communication Access Board, *State of Hawai'i Access for Employees with Disabilities Manual, Revised Edition*, June 2004.

<sup>6</sup> Schweke, William, "Smart Money - Education and Economic Development", *Economic Policy Institute*, 2004. Rolnick, Art & Grunewald, Rob, "Early Childhood Development: Economic Development with a High Public Return", Federal Reserve Bank of Minneapolis, *fedgazette*, March 2003.

<sup>7</sup> Hawai'i Kids Watch, *Children's Budget Project*, 2003.

<sup>8</sup> NGA Center for Best Practices, *A Governor's Guide to Strengthening State Entrepreneurship Policy*, 2004.

Report to the 23rd Legislature  
As required by House Concurrent Resolution No. 77, House Draft 2  
Urging The Department of Labor and Industrial Relations to Enforce the Provisions of  
Act 44, Session Laws of Hawaii 2003,  
In Accordance With the Legislature's Intent

## **Background**

This report responds to House Concurrent Resolution 77, HD 2, Regular Session 2004, requesting a report from the Department of Labor and Industrial Relations (DLIR) regarding the Hawaii Family Leave Law. The DLIR's Wage Standards Division (WSD) administers and enforces the Hawaii Family Leave Law, Chapter 398, HRS, while the DLIR's Disability Compensation Division (DCD) administers and enforces the Temporary Disability Insurance (TDI) laws.

The DLIR had a series of meetings with interested parties about the implementation of the Hawaii Family Leave Law, particularly Act 44, Session Laws of Hawaii 2003 (Act 44), which requires employers to allow employees to use up to ten days of "accrued and available" sick leave for family leave. One of the major concerns expressed in HCR 77, HD2, Regular Session 2004, is that certain self-insured employers who allow employees to use "sick leave" for family leave may end up at risk of violating their self-insured agreements for TDI.

The TDI law (Chapter 392, Hawaii Revised Statutes) allows employers to submit a plan to the DLIR that provides benefits "at least as favorable as the disability benefits provided in [Chapter 392]."<sup>1</sup> Once the DLIR accepts their plan, the employers are obligated to provide those benefits. In evaluating whether an employer's self-insured TDI plan is satisfactory, the DLIR measures the benefits using various criteria. Often the benefit plans submitted do not single out specific days for "sick leave" but the sick leave concept for the employee may be entangled in the overall benefits offered and still be determined to meet the equivalency provisions of the TDI law. These plans that do not articulate certain days for "sick leave", but are none-the-less acceptable plans within the current TDI guidelines for self-insured companies, are the plans that encounter conflicts when trying to comply with both the Hawaii Family Leave Law and the TDI law for self-insured employers.

## **Administrative Rules for Hawaii Family Leave Law**

Although the Hawaii Family Leave Law was enacted in 1991, no administrative rules have ever been promulgated. In 2004, the DLIR proposed administrative rules to: (1) establish definitions used in Chapter 398, HRS; (2) clarify the applicability of the law to employers and employees; (3) clarify the new sick leave requirement as amended by Act 44; (4) establish complaint, investigation and hearings procedures; and (5) where applicable, provide consistency with the federal Family and Medical Leave Act of 1993 (FMLA). A public hearing for the proposed family leave administrative rules was held on December 9, 2004, at 9:30 a.m. in Room 314, 830 Punchbowl Street, Honolulu, Hawaii. Notice of the hearing was advertised throughout the State on Sunday, November 7, and Monday, November 8, 2004.<sup>2</sup> The Department expects to submit Administrative Rules entitled,

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<sup>1</sup> §392-41(a)(4) and (5), Hawaii Revised Statutes.

<sup>2</sup> The Notice of Public Hearing appeared in the Sunday Honolulu Star-Bulletin on Sunday, November 7, 2004, and in the Hawaii Tribune-Herald, the West Hawaii News, The Maui News, and The Garden Isle News on Monday, November 8, 2004.

**H.C.R. No. 77, H.D. 2, Regular Session 2004**  
***Report of the Department of Labor and Industrial Relations***

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"The Administration and Enforcement of the Family Leave Law", for final approval to the Governor no later than January 2005.

**Number of Complaints Lodged**

House Concurrent Resolution No. 77, House Draft 2 also asked the DLIR to track

"the number of employers who are self-insured for temporary disability insurance who denied the use of sick leave for family leave purposes during fiscal years 2003-2004 and 2004-2005, as indicated by complaints lodged with the Department, or audits and investigations performed by the Department."<sup>3</sup>

The WSD receives and responds to inquiries including complaints about the Hawaii Family Leave Law. There has been little activity in this area. During fiscal year 2003-2004 and through November 15 of fiscal year 2004-2005, there have been three inquiries from union representatives, which involved self-insured TDI employers who denied their employees the use of sick leave for family leave purposes, but no formal complaints filed. During the same period, there were six family leave complaints filed, five on Oahu and one on Kauai. The six complaints were either dismissed or resolved after being investigated. Investigators did not find any self-insured TDI employers denied an employee sick leave for family leave purposes.

Therefore, the DLIR is unable to identify any employees who are covered by an employer's self-insured temporary disability insurance plan who have been denied the use of sick leave for family leave purposes during fiscal years 2003-2004 and through November 15 of fiscal year 2004-2005. Based on the lack of complaints filed, the audits and investigations conducted and the few inquiries from union representatives, the DLIR concludes that current compliance with the Hawaii Family Leave Law in the State of Hawaii is acceptable. The DLIR will continue to monitor this situation as part of their regular compliance activities.

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<sup>3</sup> House Concurrent Resolution No. 77, House Draft 2, Regular Session 2004.

## Report of Contested Cases

July 1, 2003 - June 30, 2004

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This report is submitted in accordance with section 396-11(k), Hawaii Revised Statutes.

	<u>Total</u>	<u>OSH</u>	<u>Discrimination</u>
1. Number of Contests Filed	11	11	0
2. Disposition:	16	16	0
Affirmed	2	2	0
Modified	0	0	0
Vacated	2	1	1
Withdrawn	0	0	0
Settled	13	13	0
Dismissed	0	0	0
3. How many cases were modified, vacated, or settled due to the conduct an employee or employees who failed to act within the scope of their office, employment or authority under this chapter?	1	1	0

## Hoisting Machine Operators' Advisory Board

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The Hawaii State Legislature created the Hoisting Machine Operators' Advisory Board for the purpose of assuring the safe operation of cranes and hoisting machines. Established in 1998 through Act 165, the Hoisting Machine Operators' Advisory Board is governed by a five member executive board appointed by the Governor.

The Hoisting Machine Operators' Certification Revolving Fund was established in 1998 to support the process for certifying hoisting machine operators. The fund is used to cover personnel and operating expenses for the advisory board to oversee certification standards that meet nationwide standards; the cost of preparing and disseminating information on hoisting machine operators' certification and training; and annual reports on the program's accomplishments. The program has been supported by the Occupational Safety and Health Training and Assistance Special Fund since FY1999-00, and is now self-supporting.

A certificate is required to operate a hoisting machine under the administrative

rules. The certification process includes a written, practical and physical examination and requires a thousand hours of crane-related experience as well as other documentation. The hoisting machine operator training is an integral part of an overall certification process. It ensures a minimum competency level and provides assurance to employers that the crane operators they employ have received appropriate training. This process benefits workers, their employers and the public.

The certification costs each individual a non-refundable \$50.00 application fee and \$500.00 for the certificate. Certificates are valid for five years and renewals cost \$500.00. The Board is responsible for ensuring that the costs are borne by the users and not the taxpayers, and that the costs for each individual operator is affordable.

As of September 30, 2004, the DLIR has certified 439 crane operators statewide and deposited \$209,860.00 in collected certification fees.

